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ABSTRACT

This report documents the disparate and unfair treatment of Latino/a youth in the U.S. justice system, describing barriers to collection of comprehensive information and potential means for overcoming these barriers. Data came from surveys of juvenile justice system directors in several states and the District of Columbia. The report describes how states fail to appropriately address issues related to bilingualism, ethnicity/race, cultural competence, and immigration status when working with Latino communities. It notes that Latino/a youth are significantly overrepresented in the justice system and receive harsher treatment, and it outlines how Latino/a youth specifically are disadvantaged by certain juvenile justice system procedures. Next, it offers examples of counties whose efforts to eliminate racial bias in system decision making and improvements in data gathering and recording systems, policies, and procedures have been effective in reducing the number of Latino youth in the system and improving the experiences of youth involved with the system. Finally, it presents strategies for Latino communities, parents, youth, law enforcement, the justice system, advocates/grassroots organizers, public officials, policymakers, and researchers. (Contains 98 references, 13 tables, and 6 figures.) (SM)

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¿Dónde está la justicia?

A call to action on behalf of Latino and Latina youth in the U.S. justice system

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Building Blocks for Youth

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1. Introduction

Latino communities, and their youth in particular, are increasingly singled out by the criminal justice system. Harsh and disparate treatment at all stages of the justice system (including police stop, arrest, detention, waiver to adult criminal court, and sentencing) is a grim reality for many Latinos. Racial and ethnic disparities in the system are compounded by an unprecedented rate of construction of new juvenile facilities, jails and prisons across the country. These facts spell trouble for Latino and Latina[1] youth, who are part of the largest and fastest-growing racial/ethnic group in the United States.

Available research data indicate that Latino/a youth, like other youth of color, receive harsher treatment than White youth charged with the same offenses. Unfortunately, the data available are limited because states do not routinely and systematically collect data that separate Latino/a youth from White youth, or distinguish among Latino/a youth of Mexican, Caribbean, Central American, or South American ancestry. The absence of comprehensive data makes it impossible to determine the full extent of disparate and punitive treatment of Latino/a youth at key decision points in the justice system, or to fully develop more comprehensive and effective policies to remedy the disparities. The failure to collect separate data on Latino/a youth also inflates the incarceration rate of non-Hispanic White youth, further masking disparities in confinement of all youth of color.

Disparate treatment of Latino/a youth manifests itself in numerous ways. In some states, Latino/a children and youth in the child welfare system are over-represented in out-of-home placements, with percentages in placement as high as 56% in New Mexico, 32% in Connecticut, 31% in California and Texas, and 27% in Arizona (Children's Bureau, 1998).

Latino/a youth also are transferred from juvenile court to adult criminal court at greater rates than White youth. Anti-gang statutes in many states impose dramatically higher penalties on youth who courts presume to be "gang members." The justice system often relies on assumptions about which youth are involved in gangs, based on racial and ethnic stereotypes about Latino/a youth. As a result, Latino/a youth who have no involvement whatsoever with gangs can nevertheless face prosecution and long mandatory minimum sentences if convicted. Moreover, youth who are bi-racial can suffer from double stereotyping by the system. Young Latinas may additionally be subject to gender stereotypes and harassment. In addition, the lack of bilingual staff and services in many agencies and institutions can make the juvenile justice experience incomprehensible at least – and nightmarish at worst – for youth and their families with limited English proficiency.

Further, lack of cultural competency among justice system personnel can lead to misunderstandings. For example, while avoiding direct eye contact is considered respectful in many Latin nations, it can be and is viewed as a sign of disrespect or

[1] Throughout the remainder of this report we use the term *Latino/a* to refer to Latino and Latina individuals.

deceptiveness by White authority figures such as judges, district attorneys, or probation officers.

Immigrant youth, the majority of whom are Latino/a, face severe hardships if they come to the attention of the Immigration and Naturalization Service (INS). Oftentimes they experience psychological trauma and long periods of detention in jails and other facilities, as well as possible deportation and permanent separation from their families. Further, once Latino/a youth are taken into custody, their parents may be afraid to have contact with authorities if the parents are not U.S. citizens and may be subject to deportation. Even those Latino/a parents who are U.S. citizens may resist invasions of their privacy and having to *prove* their citizenship. In addition, it may be difficult or, in some cases, impossible for youth in migrant families, such as farmworker families, to comply with probation requirements, turning minor misbehaviors into serious violations.

Finally, incarceration in large, overcrowded juvenile and adult detention centers and prisons can be brutal and dangerous for Latino/a youth. Detention and incarceration of Latino/a youth also has deleterious effects on their education, employment prospects, family life, and general well being.

As this report documents, disparate and unfair treatment of Latino/a youth in the justice system is a serious problem. Consider, for example, the case of "Pablo."[2]

The story of Pablo

> *Pablo, a 16-year-old undocumented immigrant from Mexico, was asleep in his bed at 2:30 in the morning, when the police banged on the door of the apartment Pablo shared with his cousins. With guns drawn, the police handcuffed Pablo. They did not allow him to show identification or to put on a coat to protect himself from the January weather. Badly frightened, Pablo cried as he was taken away. During the course of the night and the next day, Pablo was taken to two different jails.*
>
> *Pablo does not speak any English. He was asked, in Spanish, if he was the suspect the police sought; he replied that he was not. The police were looking for a much older person, who in fact was Pablo's brother. Although one of the arresting officers spoke Spanish, she did not explain the situation to Pablo. The police did not provide an interpreter at any time during Pablo's detention. He repeatedly asked to make a phone call, even using body language to convey his meaning, but the police refused. Although several officers at the second jail spoke Spanish, Pablo was not permitted to speak with them.*
>
> *The police realized early in the day that Pablo's fingerprints did not match those of the person they were seeking; nevertheless, they did not release him until 6:30 p.m.*
>
> Source: Confidential.

Is Pablo an isolated example? What are the experiences of the thousandss of other Latino/a youth in the American justice system? How does their treatment compare with that of White youth charged with the same offenses? What research is available regarding these issues, and why isn't there more? How could cities, counties, states, and the federal

[2] This story is based on a real case, as are others in this report. Whenever we include a real case, we change names and identifying information to protect confidentiality unless the individual's identity already is public.

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government improve procedures and processes for working with Latino/a youth in the justice system? Most important of all, what can we do to reduce the numbers of Latino/a youth in the system?

The purpose of this report is to answer these questions. The report provides a picture of Latino/a youth in the justice system; describes barriers to collection of comprehensive information; and contains detailed "recommendations for action" for Latino/a communities, youth, and parents; law enforcement and other components of the juvenile and criminal justice systems; advocates and grassroots organizers; policymakers; and researchers.

2. Summary of Key Findings

Finding 1

Latino/a youth are significantly over-represented in the U.S. justice system and receive harsher treatment than White youth, even when charged with the same offenses

Over-Representation: More Latino/a Youth at Each Stage of the System

While there are serious inadequacies in the availability of data, research that has been conducted demonstrates that Latino youth are over-represented in the justice system.

Latino/a youth in pretrial detention

An "index of over-representation" is calculated by dividing the Latino/a proportion of youth at a particular stage of the justice system (e.g., arrest or detention) by the proportion of Latinos/as in the general juvenile population. An index of 1.0 means that the Latino/a proportion of youth at that stage of the system is the same as the proportion of Latinos/as in the general juvenile population. An index greater than 1.0 means that Latino/a youth are over-represented at that stage of the system.

The index of over-representation for Latino/a youth in detention was significant in many states in 1996:

INDEX OF OVER-REPRESENTATION FOR LATINO/A YOUTH IN DETENTION, 1996	
Arizona	1.5
Colorado	1.9
Connecticut	4.8
Massachusetts	2.1
Nevada	1.4
New Jersey	1.5
New Mexico	1.2
New York	1.6
Oregon	1.3

Source: Hamparian, D., & Leiber, M. (1997). *Disproportionate confinement of minority juveniles in secure facilities: 1996 national report.* Champaign, IL: Community Research Associates.

Further, between 1983 and 1991, the percentage of Latino/a youth in public detention centers increased by 84%, compared to an 8% increase for White youth and 46% increase for youth overall.

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Latino/a youth in adult jails and prisons

Data compiled by Human Rights Watch (2002) indicate that Latino/a youth are incarcerated in jails and prisons at rates 2 to 3 times the rates of White youth in nine states, 3 to 6 times the rates of White youth in eight states, and 7 to 17 times the rates of White youth in four states.

Latino youth prosecuted as adults and sentenced to prison

Racial and ethnic disparities for youth occur at several points in the justice system; more importantly, they accumulate over time. Initial disparities at arrest are compounded by disparities that occur later in the process. When added together, these disparities, even if they are relatively small, can produce large negative effects. Thus, youth of color have a "cumulative disadvantage" in the justice system compared to White youth.

For example, in Los Angeles in 1996-98, compared to White youth, Latino/a youth were:

- arrested 2.3 times as often
- prosecuted as adults 2.4 times as often
- imprisoned 7.3 times as often

Racial/Ethnic Disparities: More Time for the Same Crime

Research also demonstrates that Latino/a youth are treated more harshly than White youth, even when they are charged with the same offenses.

Admission rates to state public facilities

Among youth with *no prior admissions* to state facilities:

- For youth charged with violent offenses, the admission rate for Latino/a youth was more than 5 times the rate for White youth
- For youth charged with property offenses, the admission rate for Latino/a youth was almost 2 times the rate for White youth
- For youth charged with drug offenses, the admission rate for Latino/a youth 13 times the rate for White youth
- For youth charged with public order offenses, the admission rate for Latino/a youth was 1.3 times the rate for White youth

Among youth with *one or two prior admissions* to state facilities:

- The admission rate for Latino/a youth was 2 times the rate for White youth, for *all* categories of offenses (violent, property, drug, public order)

Average length of incarceration in state public facilities

The average length of incarceration was longer for Latino/a youth than for any other racial/ethnic group in every offense category.

- Latino/a youth charged with violent crimes spent an average of 143 days longer incarcerated than White youth charged with the same offenses—almost 5 months longer.
- Latino/a youth charged with property offenses were incarcerated an average of 45 days longer than White youth similarly charged.
- For drug offenses, Latino/a youth were incarcerated for more than twice the amount of time (306 days) as White youth (144 days).
- For public order offenses such as gambling and prostitution, which are the least serious, Latino/a youth spent more than 50% longer incarcerated than White youth (220 days vs. 147 days).

Finding 2

Current means for collecting and accessing data are inadequate, resulting in under-counting and inaccuracies in reporting disproportionate representation and disparate treatment of Latino/a youth in the U.S. justice system

Several barriers to accurate data collection regarding Latino/a youth currently plague the justice system:

1. Systems for gathering data in many states and the federal government do not have a "Latino" or "Hispanic" ethnic category. They also fail to separate ethnicity from race, so that Latino/a youth often are counted as White (and sometimes as Black). As a result, data on the Latino/a youth population often are inaccurate, erroneously under-counting the degree of Latino/a over-representation and mistakenly over-counting incarceration rates of White youth.
2. State personnel have insufficient resources and/or time to collect data. During difficult economic times, especially when state budgets are being slashed, this barrier is likely to become even more daunting.
3. Departmental procedures for collecting information across jurisdictions and agencies are inconsistent.
4. States use different methods for collecting and presenting information on Latino/a populations in the justice system, including varying definitions of the terms *Latino* and *Hispanic*.
5. Some states compile data at the county level; however, there are differences of interpretation of data among counties.
6. Other states collect data only at the state level, but use of different methodologies in different states makes it difficult to compare state-level data.
7. States have too few employees who are bilingual and knowledgeable about various Latino/a cultures. As a result, data often are inaccurate or incomplete.
8. Failure to collect data that reflect changing demographics results in inaccurate and/or incomplete information on youth and their families, both within and across states.

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Finding 3
The system does not provide uniform definitions for the terms Latino and *Hispanic*

States define Latino/a ethnicity and race in a variety of ways. A youth whose father is Puerto Rican and whose mother is African-American would be identified in different ways in four different states. In Michigan, she would be classified as "Hispanic," as well as being assigned to a specific racial group. In California, she would be assigned to the category of "African-American." In Arizona, she would define her own race/ethnicity. In Ohio, she would be listed as "bi-racial."

Because no uniform system exists for defining Latino/a ethnicity, cross-state comparisons of data about Latino/a youth are inaccurate. Until a uniform definition and reporting system exists, it is not possible to determine the true extent of disproportionate representation and disparate treatment of Latinos/as in the justice system.

Finding 4
The system fails to separate ethnicity from race

Persons of Hispanic and Latino heritage can be of any race; they also can choose to identify their race as Hispanic or Latino. However, current data gathering systems generally fail to account for these facts.

Many data systems only collect information on race and only offer choices—such as "White," "African American" and "Other" – that do not consider ethnicity.

Counting Latino/a youth as "White," which is most common, significantly over-states the proportion of White youth in the justice system, significantly under-states the proportion of youth of color in the system, and ignores the proportion of Latino/a youth in the system.

Research on prisons demonstrates the errors that occur when collection systems fail to separate ethnicity from race. Including Latinos/as within the "White" category inflates the percentage of White prisoners by 56% in New Mexico, 32% in Arizona and New York, almost 27% in Colorado, 19% in Utah, and almost 18% in New Jersey. There is a corresponding under-reporting (or lack of reporting) of the percentages of Latinos/as incarcerated.

Finding 5
The system fails to provide adequate bilingual services to Latino/a youth

There are limited data available on the number of youth in the justice system who are predominantly Spanish-speaking or have limited English proficiency (LEP). However, data on the public school system in Los Angeles County, which has the largest Latino/a population in the nation, provide some indicators.

During the past 15 years, the percentage of all public school students in that county who have limited English proficiency has risen from 18% to more than 35%, with more than half of the Latino/a students not being fluent in English. At the same time, only one Latino/a teacher is available for every 147 Latino/a students in the county.

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As the Spanish-speaking population of the United States increases, the need for bilingual services for youth in the justice system also increases. For individuals who speak little or no English, legal procedures must be explained in Spanish and documents must be translated. Spanish-speaking parents are cut off from communicating with their children and with decision makers in the system if bilingual staff and services are not available.

Moreover, cases that involve medical or mental health emergencies require immediate communication with both youth and parents about what is happening. It is particularly important to communicate with individuals in the language that has the least likelihood of misunderstanding during such emergencies.

Also, interpretation of the results of various types of assessments (e.g., risk, psychological, and educational) may be mistaken because those working in the system do not have the necessary language and/or cultural competency skills.

Finally, without bilingual services, it is difficult, if not impossible, to communicate with youth, their parents or guardians, and their families about treatment, counseling services, and after-care plans.

Finding 6
The system fails to ensure cultural competency of staff working with Latino/a youth

Language is only one aspect of culture. Cultural differences between Latino/a youth and justice system personnel may foster misunderstandings that lead to inappropriate and harsher treatment. For example, looking down in the presence of an authority figure is an indication of embarrassment for misbehavior in Latino cultures, but judges may take it as a sign of disrespect and an indication of guilt. For Latino youth, "staring down" an authority figure is highly disrespectful. Thus, lack of cultural competence among key decision makers may increase the likelihood of punishment for Latino/a youth.

Moreover, the Latino/a population of the United States is increasingly diverse. In 1970, Latinos/as in this country were primarily second- and third- generation U.S.-born, English-speaking individuals of Mexican ancestry. The Latino/a population now is comprised of many diverse groups, including Mexican, Guatemalan, Salvadoran, Cuban, Nicaraguan, Peruvian, Puerto Rican, Honduran, and Colombian, each with its own ethnic identity and cultural traditions. While Latinos/as may share common language and cultural values—such as the importance of close family and extended family relationships—their histories and experiences in the U.S. are not identical. Differences among Latino/a subgroups cover a wide range of variables, including—but not limited to—immigration status, fertility rates, family structure, socioeconomic status, and education. These factors may significantly impact Latinos/as' interactions with the justice system.

Predominantly Spanish-speaking individuals, particularly those who immigrated recently to the United States from countries with autocratic or corrupt legal and law enforcement systems, often struggle to communicate with justice system personnel and to understand or trust justice system procedures in this country. Lack of training or experience by those within the system can exacerbate miscommunications and misunderstandings.

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In addition, assessment tools (e.g., risk, psychological, and educational) may not be culture-neutral and appropriate to the individuals being assessed, and professionals who administer and interpret the results may not be trained in cultural differences.

The juvenile and criminal justice systems have a variety of problems providing culturally competent personnel and services, including:

- Recruiting staff and service providers who are bilingual and culturally competent
- Conducting inservice training of staff in cultural competency
- Translating documents and forms into Spanish
- Providing services to families that are culturally appropriate

Finding 7
Consideration of the immigration status of Latino/a youth may result in incarceration, deportation, and permanent separation from families

The detention and incarceration of Latino/a youth are not limited to the juvenile justice and adult criminal justice systems. The Immigration and Naturalization Service (INS) detains nearly 5,000 immigrant youth at more than 90 facilities across the country. The vast majority of the children detained are Latino/a. In most instances, they have not been charged with any crime, so their only violation of the law is being present in the United States without legal documentation. Nevertheless, many of these youth are detained for months, and sometimes years, in secure juvenile detention centers and, in some cases, in adult jails and prisons contracted by the INS, after which they may be deported. Another approximately 9,000 immigrant youth, a majority of whom are Mexican, are detained at the U.S.-Mexico border annually; most of them are deported within 72 hours. Latino/a youth taken into the custody of the INS often are denied a hearing, access to legal representation, and contact with relatives. They are provided with little information about their legal rights and about whether, or when, they will be deported. The detention facilities often feature few (if any) bilingual staff, no cultural competency plan and substandard education services. Immigrant youth may be commingled with delinquent youth, even if they have not been charged with a crime themselves.

Some immigrant youth become separated from their parents and families during their journey to the United States and arrive in this country completely unaccompanied. Others are apprehended with their families, but are purposefully transferred by the INS to detention facilities located in different states than those where their parents are detained. Many youth are held in detention even when adult family members are available to take custody of them while their immigration case is pending. In some cases, parents of immigrant children apprehended by the INS are afraid to come forward to take custody for fear that they themselves will be deported—a fear that has been borne out in some instances.

The majority of immigrant youth who are detained never obtain access to a lawyer. Immigrant youth have no right to government-appointed counsel or guardians ad litem. They are nonetheless held to the same standard of proof as adults in their immigration "removal" (deportation) proceedings. Children as young as 6 years old have had no representation in immigration court. Further, the U.S. government makes little or no effort to reunite children with family members when they are deported. In fact, some children from Central and South American countries simply have been dropped off at the U.S.-Mexico border.

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Many immigrant youth have lived in the United States virtually their entire lives and no longer have ties to their country of birth. Some are detained many years after having entered the U.S. and no longer speak Spanish. Some youth are the young parents of children born as U.S. citizens. Nevertheless, Latino/a youth who are not citizens of this country may suffer not only prolonged periods of secure detention and discrimination but also permanent separation from their families. If they are deported to their country of birth, many also face poverty, homelessness, further psychological trauma, political persecution and other significant hardships.

No uniform system exists for collecting data on detention and incarceration of immigrant youth. Consequently, it is impossible to provide accurate information to policymakers, legislators, agency administrators, or other justice system decision makers.

Finding 8
Anti-gang laws result in harsh consequences for Latino/a youth

Detention: Consequences of inappropriate use of risk assessment instruments

Probation departments use risk assessment instruments to determine which youth to detain after arrest. The goal is to insure that detention decisions are based on objective criteria of whether a youth presents a threat to public safety or is a flight risk. However, subjective factors, based on racial and ethnic stereotypes, can influence detention decisions. Latino/a youth in particular may be penalized for suspected gang involvement, based upon appearance, neighborhood, clothing, or other factors not related to alleged unlawful behavior. Latino/a youth also may be detained when their parents either cannot be reached or cannot pick up their children from the probation department, sometimes because the parents are undocumented and fear possible deportation for doing so.

Sentencing: Consequences of presumed gang identification

Being labeled a "gang member" can have adverse consequences for youth at all the key decision-making points in the justice system. First, stereotypes about which youth are associated with gangs can impact police decisions about who to stop and who to arrest. Alleged gang affiliation also can be the determining factor in whether a youth is held in secure detention after arrest. Police and probation departments in some jurisdictions assign a significant number of "negative points" for alleged gang involvement during the risk assessment of Latino/a youth who are arrested. For many Latino/a youth, this practice incorrectly presumes the youth are dangerous and guilty before they are adjudicated.

Gang affiliation is also a basis for transferring a youth to an adult court in some jurisdictions. Under California's Proposition 21, by merely alleging that an offense is "gang-related," prosecutors may have the power to file charges directly in adult court against a youth as young as 14 years old, without a hearing before a judge. Under the California Penal Code, "gang-related" offenses are defined as those "committed for the benefit of, at the direction of, or in association with any criminal street gang with the specific intent to promote, further, or assist in any criminal conduct by gang members." Allegations of gang involvement can also be extremely prejudicial to the outcome of the youth's case, sometimes serving to validate judges' decisions to transfer a youth to adult court initially, to deny bond, or to discount the youth's testimony entirely. Moreover,

even allegations that a youth is a "gang member"—which are ultimately unsubstantiated—may nevertheless instill fear in some jurors and thereby impact the verdict and sentencing.

Anti-gang laws also come in the form of "gang enhancements," which significantly increase the penalties imposed for an offense. Although many gang-related offenses are serious offenses, gang enhancement laws sometimes impose sentences which far exceed what the criminal law would have imposed for the same offense had it not been gang-related. For example, in California, youth can face a life sentence in adult prison for a residential robbery if it is deemed to have been "gang-related." Presumptions about gang affiliation also have severe consequences under the state's "three-strikes" law intended for adults. Proposition 21 made any offense committed "on behalf of a gang" a strike. It also created new "juvenile strikes," or juvenile offenses which count as adult strikes, which can lead to 25-year-to-life sentences for some youth. These new "juvenile strikes" include offenses such as unarmed robbery."
The terms *gang* and *gang affiliation* are defined differently and quite broadly in many jurisdictions. In some states, the sole testimony of a police officer categorized as a "gang expert" by the police department is enough to establish a youth's "gang association" at trial. Anti-gang laws have legalized the practice of "gang profiling," which allows police to stop, question and in some jurisdictions use extremely aggressive tactics, such as involving SWAT teams, against any youth who fits a description of a "gang member." Latino/a and other youth of color who merely have a tattoo, wear hip-hop clothing or live in low-income, high crime neighborhoods are sometimes presumed to be "gang affiliated" by police and therefore are stopped, questioned and physically threatened or assaulted. These policies are often justified under the auspices of the "war on drugs," of which the "war on gangs" is a part.

Police work targeting predominantly Latinos/as and Latino/a "suspected gang members" in Los Angeles was the focus of the city's largest police scandal in history. The Rampart CRASH ("Community Response to Street Hoodlums") police unit planted evidence on thousands of innocent people, committed perjury in court to gain convictions and physically brutalized innocent youth and adults. The officers also illegally colluded with the INS to deport young Latinos/as. The Los Angeles Public Defender continues to review over 30,000 convictions to identify other young people Rampart police may have framed.

The use of "gang databases" has become more widespread over the last decade. They are currently used in Michigan, Ohio, Minnesota, Texas and California, among other states. Such databases are comprised of names of "suspected gang members," "gang associates," and individuals convicted of "gang-related" crimes and also include personal information and photographs entered by police. The criteria for being placed on these lists often are vague, including such things as "hangs around with gang members" and "is called a gang member by an untested informant with corroboration." These lists are off limits to the public in many jurisdictions and there is no judicial review of the decision to place a youth in the database; thus, gang databases often include many youth who have left gangs or who were never actually gang members. In addition, in some jurisdictions there are no means available for youth to have themselves removed from the gang database.

Gang databases are sometimes used in tandem with "gang injunctions," which typically prohibit gang members from associating with other gang members, or from traveling to particular neighborhoods. Although such injunctions are civil court orders, violations of them can carry criminal penalties including jail time. In jurisdictions like Los Angeles, San Diego and San Jose, police have declared specific sections of the city "gang

injunction zones," in which heightened policing and "gang profiling" practices sometimes result in police stopping, questioning, and entering into the gang database youth who are not gang-affiliated.

Prosecution as an adult: Consequences of waiver and confinement in adult facilities

Youth prosecuted as adults and confined in adult jails or prisons face particular dangers. Compared to youth in juvenile facilities, youth in adult facilities are:

- 8 times as likely to commit suicide (Flaherty, 1980)
- 5 times as likely to be sexually assaulted
- 2 times as likely to be assaulted by staff
- 50% more likely to be attacked with a weapon (Forst, Fagan, & Vivona, 1989)

Moreover, prosecution in adult criminal court and confinement in adult facilities leads youth to more crime, not less. Youth prosecuted in criminal court are *more likely* to commit subsequent offenses upon release from incarceration, more likely to commit *violent* offenses, and to commit them *sooner* after release, than youth with similar charges, offense histories, and other characteristics who are prosecuted in juvenile court.

3. Purposes of This Report

The purposes of this report are (1) to provide a picture of Latino/a youth in the U.S. justice system today, with a particular focus on racial and ethnic disparities, (2) to describe barriers to collection of comprehensive data regarding Latino/a youth in the system, and (3) to initiate a "call to action" for Latino communities, policy makers, service providers, advocates, researchers, parents, and youth to address the problems outlined in this report.

The report has several specific objectives. First, it sets the context for this issue by:

- Describing how the terms *Latino/a* and *Hispanic* are used in discussions of race and ethnicity.
- Outlining changing Latino/a demographics in the United States as a basis for understanding the urgent need to reduce over-representation of Latino/a youth in the U.S. justice system and the racial/ethnic disparities they endure.
- Describing disproportionate minority[3] representation and racial/ethnic disparities in the treatment of youth of color (African Americans, Latinos/as, Asian Americans, and Native Americans) in the American justice system.

The report then describes our survey of selected states regarding Latino/a youth in the system and presents findings from the survey, including data on over-representation and racial/ethnic disparities in confinement of Latino/a youth and prosecution of Latino/a youth as adults, and descriptions of the experiences of Latino/a youth in the U.S. justice system.

The report identifies barriers to collection of accurate data on Latino/a youth in the justice system, as well as potential means for overcoming those barriers, including

- Determining how different states define the terms *Latino* and *Hispanic* and ascertaining how these definitions impact record keeping regarding Latino/a youth in the system.
- Determining how different states use the categories of race and ethnicity when recording data on Latino/a youth.
- Examining whether, and if so how, states record data regarding specific ethnic subgroups of Latino/a youth in the justice system.

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[3] Throughout this report we use the term *youth of color* to refer to non-Whites; where we quote from or summarize other sources that use the term *minority* or *minority youth* instead of *youth of color*, we use the term *minority youth*. The term *disproportionate minority representation* is a phrase typically used by government sources.

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The report also describes how states fail to appropriately address issues related to bilingualism, cultural competence, and immigration status when working with Latino communities. In addition, it outlines how Latino/a youth specifically are disadvantaged by certain juvenile justice system procedures.

Next, the report provides examples of counties whose efforts to eliminate racial bias in system decision making and improvements in data gathering and recording systems, policies, and procedures have been effective in reducing the number of Latino/a youth in the system and improving the experiences of youth involved with the system.

Finally, the report delineates strategies for addressing each of the problems outlined, including recommending action steps designed to reduce the number of Latino/a youth in the justice system and to improve the experiences of Latino/a youth in the system. Contact information for national and state resources is included.

4. Contexts

A. Latino/Hispanic race and ethnicity

The United States government uses the term *Hispanic* to recognize individuals' common Spanish descent. The term refers, in part, to people with ties to nations where Spanish is the official language. The U.S. government and legal system historically have insisted on categorizing all Spanish-speaking people as Hispanic and treating them as a monolithic group, regardless of cultural differences.

The term *Latino*, on the other hand, generally refers to people with ties to the nations of Latin America and the Caribbean, including some nations where Spanish is not spoken (e.g., Brazil). It also encompasses persons born in the United States whose families immigrated to this country from Latin America in the recent past, as well as those whose ancestors immigrated generations ago.[4] Like the term *Hispanic*, the categorization *Latino* is a general one that does not recognize the diversity of ethnic subgroups (e.g., Puerto Rican, Dominican, Guatemalan, Peruvian, Mexican).

This document will not resolve this definitional dispute. Throughout this report we have elected to use the term *Latino* to describe people in this country who identify their racial/ethnic backgrounds in reference to Mexico, Central and South America, and the Caribbean, including people born or living in the United States.

Racial and ethnic identity development is an important precursor to understanding Latino/a youth development (Obeler, 1995). It is necessary and valuable to distinguish among youth of Mexican, Guatamalan, Salvadorean, Nicaraguan, Honduran, Colombian, Puerto Rican, Dominican, and other Caribbean, Central American, and South American ancestry, all of whom have their own ethnic identity[5] and cultural traditions. Understanding racial and ethnic identity must be incorporated into research and practice if we, as a nation, are to promote the resiliency of Latino/a youth (Fisher, Jackson, & Villarruel, 1997).

Appendix C provides definitions of terms related to race and ethnicity. It also provides definitions of terms related to justice system personnel and procedures.

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[4] Some Latino families can trace their roots in the United States back to times long before the Pilgrims arrived on this continent.

[5] Ethnic identity is defined as individuals' interpretation and understanding of their ethnicity and the degree to which they identify with their ethnic group (Phinney, 1996). According to Umaña-Taylor and Fine (2001), "Ethnicity pertains to cultural traditions, prescribed norms, values, and a heritage that persists beyond generations. Because individuals' national origin may influence their traditions, customs, values, and beliefs, ethnic identity should not be examined without considering differences in nationality" (p. 348).

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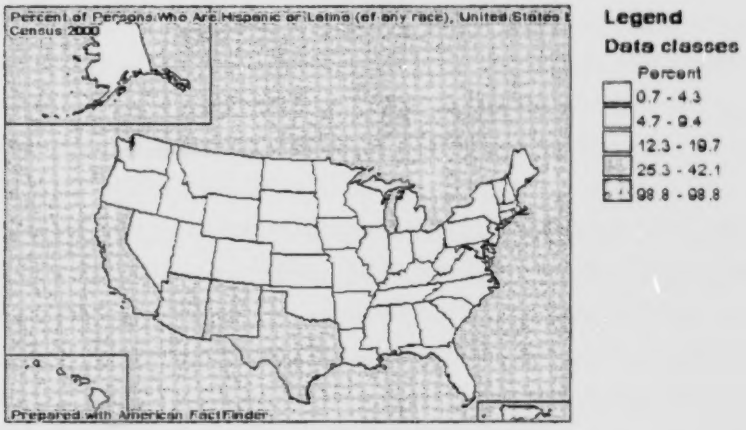
B. Changing Latino demographics in the United States

Increasing numbers of Latinos/as live in the United States

Analysis of 2000 Census data reveals that Latinos/as currently comprise 12.5% of the total population of the United States and that the Latino/a population in the United States grew by 58% between 1990 and 2000 (Grieco & Cassidy, 2001). Figure 1 shows the distribution of Latino/a residents across the United States.

Figure 1. Distribution of Latino/a Residents Across U.S. States



Analysis of Census 2000 data (Grieco & Cassidy, 2001) also reveals that:

- More than three-quarters of Latinos/as lived in the western or southwestern United States.
- Half of all Latinos/as lived in two states: California (11.0 million; 31.1%) and Texas (6.7 million; 18.9%).
- More than 4 million Latinos/as lived in Los Angeles County, California. Latinos/as make up 44.6% of the population of the county. Mexicans constitute 71.7% of the Latino/a population there. Puerto Ricans and Cubans each comprise 1% of the county's Latino/a population; "other Hispanic and Latino" groups, including those from Central America, constitute 26% of the Latino/a population of Los Angeles County.
- A rapidly growing number of Latinos/as now are living in many areas that, historically, did not have a substantial Latino/a population, including counties in North Carolina, Georgia, Iowa, Arkansas, Minnesota, and Nebraska.
- Outside Los Angeles County, counties with the highest proportions of Latinos/as were along the southwestern border of the United States.

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- In 1997, eight states had higher proportions of Latino/a youth in residence than the U.S. average (15%): New Mexico (48%), California (40%), Texas (37%), Arizona (31%), Nevada (21%), Colorado (20%), New York (19%), and Florida (16%) (Snyder & Sickmund, 1999a).

The Latino/a population in the United States is expected to continue to grow at more than three times the rate of the total U.S. population (Aguirre-Molina & Molina, 1994), due in large part to two factors: (1) Latinos/as have the highest fertility rate of any U.S. racial/ethnic group (Mendoza, 1994) and (2) sustained high levels of Latino/a immigration. The Latino/a population also tends to be more youthful than other racial/ethnic groups. U.S. Census figures for 2000 reveal that, of 35.3 million Latinos/as, 34.8% (10 million) are under the age of 18 years, compared to 25.7% of the entire U.S. population. It is estimated that the proportion of Latino/a youth in the U.S. will increase 59% between 1995 and 2015 (Snyder & Sickmund, 1999a).

It is important to note that a growing Latino population cannot by itself explain the disproportionate number of Latino/a youth involved in the justice system. In fact, in states that have comparatively small Latino populations, such as South Dakota and Michigan, the racial and ethnic disparities in detention rates are even more stark than in states with the highest Latino populations (Human Rights Watch, 2002). For example, both Michigan and South Dakota detain youth at more than 7 times the rate at which White youth are detained (Human Rights Watch, 2002). Unless steps are taken now to eliminate racial bias and disparities in the justice system, Latino/a youth will continue to be unjustly targeted for police stops, arrest, detention, transfer to adult court, and harsher sentencing.

Latino populations in the United States are increasingly diverse

Today, although Mexicans and Mexican Americans still comprise the largest Latino/a subgroup in the U.S., the Latino/a population is more intra-ethnically diverse than it has been at any time in the past (Inter-University Program for Latino Research, 2001). As a result of different growth rates, the proportionate distribution of Latinos by type changed between 1990 and 2000. In 2000, Mexicans constituted 66.1% of all Latinos (up from 60.4% in 1990), Puerto Ricans were 9.0% (down from 12.2%), Cubans were 4.0% (down from 4.7%), and the remaining 28.4% were of other Latino/a origins (up from 22.8%; Grieco & Cassidy, 2001; U.S. Census, 2000). Figure 2 depicts the relative proportions of various Latino/a subgroups living in the United States in 2000.

Table 1
PERCENTAGE INCREASE IN CERTAIN LATINO POPULATIONS IN THE UNITED STATES: 1990 TO 2000

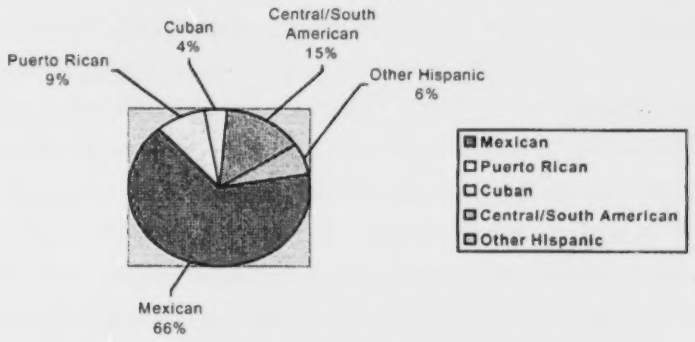
Latino group	*Percent increase*
Mexican	53%
Puerto Rican	25%
Cuban	19%
Other groups combined*	100%

Source: U.S. Census Bureau (2000). Census Summary File 1.
*For example, Dominican, Guatemalan, Costa Rican.

As Table 1 shows, the Mexican/Mexican American population grew faster than any other Latino/a group. The population of Latinos/as of Mexican descent more than doubled in

27 U.S. states between 1990 and 2000. The population of Latinos/as of Puerto Rican descent more than doubled in 12 states, the population of Latinos/as of Cuban descent more than doubled in 11 states, and the population of Latinos/as of Dominican descent more than doubled in 21 states (Inter-University Program for Latino Research, 2001).

Figure 2
Latino Populations in the United States in 2000



Source: U.S. Census Bureau, Current Population Survey, March 2000.

Appendix A shows the 10 states with the largest population of each Latino/a subgroup (Mexican, Puerto Rican, Cuban, etc.). Appendix B shows the 10 cities with the largest populations of Latinos/as.

These data demonstrate that Latinos/as represent a strong and growing proportion of the U.S. population. Disparate treatment of Latino/a youth in the justice system is a critical concern and Latinos/as should have a strong voice in law enforcement and corrections policies that disproportionately impact them.

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C. Over-representation, disproportionate confinement, and racial and ethnic disparities in treatment of youth of color

What is the problem of over-representation or disproportionate confinement of youth of color in the justice system?[6]

Poe-Yamagata and Jones (2000) reported that although youth of color represented just 34% of the U.S. population in 1997, they represented 62% of the youth in detention, and 67% of youth committed to state facilities.

Hamparian and Leiber (1997) provide many examples of over-representation of youth of color in the juvenile justice system.

- In California, youth of color comprised 53.4% of the youth population statewide, but 59% of all juveniles arrested, almost 64% of the juveniles held in secure detention, and 70% of the juveniles placed in secure corrections.
- In Ohio, youth of color comprised 14.3% of the youth population statewide, but 30% of the juveniles arrested and 43% of the juveniles placed in secure corrections.
- In Texas, youth of color comprised 50% of the youth populations statewide, but 65% of the juveniles held in secure detention, 80% of the juveniles placed in secure corrections, and an astounding 100% of the juveniles held in adult jails.

Juvenile Offenders and Victims: 1999 National Report (Snyder & Sickmund, 1999a) provides similar evidence of disproportionate involvement of youth of color in the juvenile justice system. For example, a national survey conducted on October 27, 1997 found that, for every 100,000 Black youth in the general population, there were 1,018 incarcerated. For Latinos/as the rate was 515, whereas for White youth it was only 204. This report also noted that youth of color are over-represented at all stages of the juvenile justice system, compared with their proportion in the population.

What is the "index of disproportionality"?

In 1997, the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) published a national report analyzing the over-representation of youth of color at critical points in the justice system, including arrest, secure detention, disposition to secure corrections, confinement in adult jails and lockups, transfer to adult court, and placement on probation (Hamparian & Leiber, 1997). The report created an index numbering system to illustrate the level of over-representation of minorities at each stage of the system. An index of 1.00 indicates that youth of a particular racial or ethnic group appear in the justice system in exactly the same proportion as they occur in the general population. An

[6] Section 5633(a)23 of the Juvenile Justice and Delinquency Prevention Act of 1974, Title 42 of the United States Code, requires states to (1) investigate the problem of disproportionate minority confinement (DMC) in secure facilities, (2) determine the extent to which DMC exists, (3) assess the reasons for its existence, and (4) develop action plans to address the causes of disproportionate confinement of minorities. States failing to address the overrepresentation of youth of color in confinement are ineligible to receive certain federal funds. States failing to address the youth DMC problem are ineligible to receive 25% of their Formula Grant allocations for the year (Roscoe & Morton, 1994).

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index number greater than 1.00 indicates over-representation; the larger the index number, the greater is the extent of over-representation. In contrast, an index number less than 1.00 indicates under-representation. So, for example, an index number of 2.0 for Latinoa/ youth for a particular state would mean that Latino/a youth are institutionalized at twice the rate that would be expected based on their representation in the general public.

Calculating the "index of disproportionality"

The "index of disproportionality" is calculated by dividing the proportion of youth at a given point in the justice system in a particular jurisdiction by the proportion of youth in the general population in that jurisdiction. For example, in 1999, Latino youth constituted 18.3% of juveniles ages 10-19 incarcerated in residential placement on October 29, 1997, but only 14% of the general population. The index of disproportionality is calculated by dividing the proportion of Latino youth in residential placement (18.3%) by the proportion of Latino youth in the general population (14%), yielding an index of disproportionality of 1.3.

How are racial and ethnic disparities different from over-representation, and why are these differences important?

Over-representation of minority youth in the justice system is caused by many factors – including potentially different delinquent behavior patterns of youth of color and White youth, police practices that focus on "high crime" areas, socio-economic factors, and discriminatory practices such as racial profiling – which are discussed in the next section. When we refer to racial and ethnic *disparities*, however, we mean differences in treatment of youth that are solely attributable to their race or ethnicity. Thus, looking at racial and ethnic disparities gives us a clearer picture of the harsher treatment that Latino/a youth receive in the justice system because of their racial and ethnic identity, and a closer view of racial and ethnic discrimination in the system.

There is a significant body of research demonstrating racial and ethnic disparities for youth in the justice system.

Pope and Feyerherm (1990a, 1990b) reviewed research on the relationship between race and juvenile justice processing that had been conducted between 1970 and 1988. They found that approximately two-thirds of available studies on disproportionate minority representation reported negative effects of race at one or more stages of the juvenile justice process, with racial/ethnic effects most pronounced at intake and detention. For example, a three-year study of juvenile offenders in Florida found that youth of color received more severe dispositions than their White counterparts at several stages of processing (Bishop & Frazier, 1996). Even after controlling for age, gender, seriousness of the offense, and seriousness of prior records, this study found that youth of color, particularly African American and Latino/a youth, were more likely to be sentenced to state institutions than White youth charged with the same offenses. In other words, youth of color were treated disparately by the system.

In addition, ethnic disparities *accumulate* as youth are processed through the justice system (Pope & Feyerherm, 1990a). Whether a youth is detained after initial contact with the police seems to influence all subsequent decisions: detained youth receive more severe dispositions than youth not detained, when other factors are controlled (Frazier & Cochran, 1986). Youth of color consistently receive more severe punishments and are

more likely to be incarcerated than White youth who commit the same offenses (Pope & Feyerherm, 1990a).

What are the causes of disproportionality and racial/ethnic disparities in the justice system?

Some individuals argue that over-representation and disproportionate confinement of youth of color result from differential crime patterns among minorities. For example, Senator Orrin Hatch stated in the *Congressional Record* of May 19, 1999, "These kids are committing crimes. Just because you would like the statistics to be relatively proportionate - if that isn't the case because more young people commit crimes from one minority classification than other - it doesn't solve the problem by saying states should find a way of letting these kids out. . . . I haven't one shred of information that proves there is discrimination here" (§ 5572).

Proponents of this view suggest that over-representation in the system is not the result of racial bias or discrimination inherent in the system (Roscoe & Morton, 1994). According to this line of reasoning, if youth of color commit proportionately more crime than White youth, are involved in more serious incidents, and have more extensive criminal histories, they will be over-represented in secure facilities, even if system decision makers engage in no discrimination.

Although there are some racial/ethnic differences in delinquent behavior for some types of offenses, those differences do not explain the significant over-representation of youth of color in the justice system. Based on extensive self-reporting and interviews, Elliot (1994) concluded that delinquent behavior is a relatively commonplace aspect of adolescence for a large segment of American youth, across the racial divide. While Black youth in his study were one-third more likely than White youth to commit a violent offense by the time they were age 17, these differences were not sufficient to explain the huge difference in incarceration rates between White youth and Black and Latino/a youth: Black youth were incarcerated at 5 times the rate of White youth, Latino/a youth were incarcerated at 2 ½ times the rate of White youth.

Thus, it seems more reasonable to conclude that over-representation is a complex social problem with multiple causes. For example, indicators of low socioeconomic status (such as joblessness, housing density, and poor health care), which are more common among people of color, increase the risk for delinquent behavior among youth of color (see, e.g., Arthur, Mildon, & Briggs, 1990; Fagan, Piper, & Moore, 1986; Miller, 1986; Myers & Simms, 1988; Tonry, 1995).

Studies have demonstrated that youth belonging to a lower socioeconomic class and youth of color are more likely to be detained than other juveniles (McEachern, 1968). They also receive more severe dispositions as a result of stereotyping (McCarthy & Smith, 1986).

In this regard, research by OJJDP's Causes and Correlates Program shows that the type of community in which the juvenile lives has a stronger effect on likelihood of becoming involved in delinquency than racial characteristics (Roscoe & Morton, 1994). African Americans living in non-disadvantaged areas do not have higher rates of delinquency than Whites living in non-disadvantaged areas (Roscoe & Morton, 1994).

Over-representation also results from law enforcement practices and policies. Police target "high crime" areas, deploying more police to particular neighborhoods. Because

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high crime areas often correspond with areas of poverty where youth of color live, minority youth come to the attention of the police more often than White youth.

Over-representation also results from bias of decision makers in the system. In an important research effort, Bridges and Steen (1998) analyzed probation officers' written accounts of juvenile offenders and their crimes and court records about the offenders in three Washington counties. They found pronounced differences in officers' attributions about the causes of crime by White versus minority youth. Probation officers consistently portrayed Black youth differently than White youth in their written court reports, attributing Blacks' delinquency to negative individual attitudinal and personality traits, while stressing the social environment in their depictions of White youth. These attributions about youth shaped the probation officers' assessments of the threat of future crime, and correspondingly their sentence recommendations, since court officials relied more heavily on negative individual attributions than on severity of the current offense or prior delinquency history. Finally, the research found that these attributions are a mechanism by which race influences judgments of dangerousness and sentencing recommendations: Officials in part judge Black youth to be more dangerous than White youth as a consequence of negative attitudinal and personality traits, and therefore impose longer sentences on them.

Of particular concern are law enforcement practices that intentionally rely on race or ethnic identity, including racial profiling. Racial profiling means targeting certain persons to be stopped, questioned, or arrested because of their race or non-criminal behaviors associated with their cultural heritage (see, e.g., Leadership Conference on Civil Rights [LCCR], 2000). Racial or ethnic profiling is discrimination.

Evidence of over-representation serves as a "red flag" that racial/ethnic bias and disparities in the justice system could be prevalent at many important stages of system decision making. It is important to keep in mind, however, that evidence of over-representation is not sufficient to conclude that decision makers in the system are racially biased or engage in discrimination. Far more convincing evidence is provided by data on disparate treatment of youth of color in the system—in other words, evidence that Latino/a youth charged with the same crimes as White youth are more likely to be waived to adult criminal court and receive harsher punishments and longer periods of confinement.

For example, the National Council on Crime and Delinquency analyzed over-representation of youth of color in California (Austin, Dimas & Steinhart, 1992). The report found that Black youth in California were over-represented at every stage of the system, even when statistical controls were applied. Thus, nearly 72% of Black youth referred for felony drug offenses were detained, versus 43% of the White youth charged with the same offense. In addition, 11% of Black youth with violent felony offenses were committed to the California Youth Authority (CYA) in 1989, while only 3% of White youth with similar offenses were committed to a CYA facility. Disparities at the commitment stage existed for every offense category – violent, property, drug, and public order—except misdemeanor drug offenses. The report concluded that the analyses unveiled "a picture of persistent differential treatment for some minority groups after having accounted for prereferral factors such as offense and prior record" (p. 164).

These findings, among others, provide exceptionally strong evidence that disproportionate minority representation and disparity of treatment are serious and expanding problems. Today, it would be a travesty to conclude that the problem of over-

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representation and disparate treatment of youth of color in the justice system is not the result, at least in part, of racial bias and discrimination.

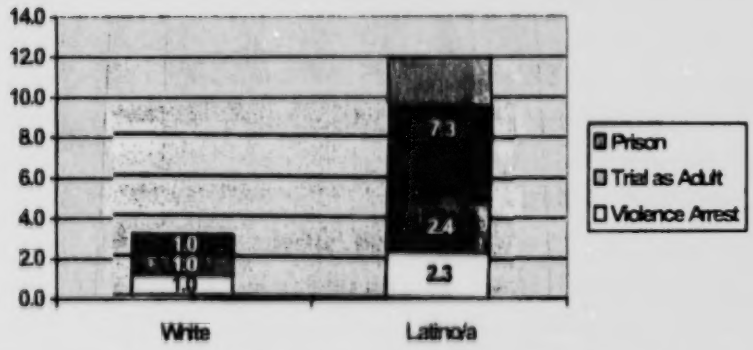
What are the cumulative effects of over-representation and racial and ethnic disparities in the system?

Racial and ethnic disparities for youth occur at several major points in the justice system; more importantly, they accumulate over time. The initial disparity at arrest is compounded by disparities that occur later in the process, including the stages of detention, formal charging, adjudication, waiver, and disposition. When added together, these disparities, even if they are relatively small, can produce large effects (National Research Council and Institute of Medicine, 2001). Thus, youth of color have a "cumulative disadvantage" in the system compared to White youth.

Using data from Males and Macallair (2000), Figure 3 illustrates this cumulative disadvantage, showing how, on average, Latino/a youth charged with violent offenses in Los Angeles are impacted over time. Specifically, in Los Angeles in 1998:

- Latino/a youth were arrested 2.3 times as often as White youth
- Latino/a youth were tried as adults 2.4 times as often as White youth
- Latino/a youth were imprisoned as adults 7.3 times as often as White youth

Figure 3: The Cumulative Disadvantage for Latino/a Youth Charged with Violent Offenses in Los Angeles (1996-1998)



Source: Males, M., & Macallair, D. (2000). *The color of justice: An analysis of juvenile adult court transfers in California.* Washington, DC: Building Blocks for Youth.

Thus, a Latino/a youth who committed a violent offense in Los Angeles during the period 1996-1998 was, in total, 12 times as likely as a White youth to be confined in the California Youth Authority (CYA).

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5. Study Methodology

Survey of selected states

A total of 14 states and the District of Columbia were pre-selected for inclusion in this study (see Figure 4). Based upon the proportion of Latinos/as in residence and the rate of change in the Latino/a population, we categorized states in three tiers: (1) states with significant Latino/a populations, that is, those with at least 12% of the population, which is the national average; (2) states with growing Latino/a populations, that is, those whose Latino/a populations had grown by 1-8%; and (3) states with steadily low proportions of Latinos/as. We asked 8 states in the first category (Arizona, California, Florida, Illinois, New Jersey, New Mexico, New York, and Texas), 5 states in the second category (Massachusetts, Michigan, North Carolina, Ohio, and Pennsylvania), and 1 state in the third category (Wyoming) to participate in this study.

Figure 4
U.S. States Surveyed

We recruited states by sending a letter of invitation to the director of the juvenile justice agency for each identified state (see Appendix D for copy of letter of invitation and accompanying consent form). We requested that the Director either return the consent forms and completed questionnaires or provide the name(s) of contact person(s) who could provide the information requested. If the Director did not respond, we initiated a series of follow-up phone calls to obtain the information requested. If the Director or

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his/her designee did return the completed questionnaire, we made follow-up phone calls if necessary to clarify information provided or to obtain additional information.

The survey requested information on how the state collects information on Latino/a youth in the system, barriers to data collection, data and trends on Latino/a youth in the justice system, and current policies regarding Latino/a youth in the justice system. The survey questions are listed in Appendix E. We also collected data from a variety of other sources listed in Appendix F.

Response rates

Ultimately, as Table 2 shows, we received usable survey responses from 9 of the 14 states from which we had requested participation, although we received only partial responses from New Jersey and Texas. New York returned our survey, but did not include usable data. We did not receive any response from Florida, Massachusetts, Pennsylvania, Wyoming, or the District of Columbia. Only 3 of the 14 states provided data sets; none of these data sets had information on ethnic subgroups of Latino/a youth.

Table 2
RESPONSES FROM STATES INVITED TO PARTICIPATE IN OUR SURVEY

State (# phone calls made to state)	*Survey completed?*	*Dataset provided*	*Data set provides information on Latino/a youth*
Arizona (6)	Yes	Juveniles processed in the Arizona court system, FY00	Yes, but not on ethnic subgroups
California (17)	Yes	Characteristics of CYA population (June 2001); trends in YA commitments (through 1997); a comparison of first commitment characteristics (1989-2000)	Yes, but not on ethnic subgroups
District of Columbia	No; never responded	None	--
Florida (6)	No; never responded	None	--
Illinois (6)	Yes	None	--
Massachusetts (8)	No; never responded	None	--
Michigan (10)	Yes	None	--
New Jersey (6)	Yes (partially)	None	--
New Mexico (8)	Yes (but not usable)	None	--
New York (2)	Yes	None	--
North Carolina (3)	Yes	None	--
Ohio (1)	Yes	Ohio Department of Youth Services: Commitment/Regional Trend Report (for FYs 1996-1997, 1997-1998, and 1998-1999)	Yes, but not on ethnic subgroups
Pennsylvania (13)	No; never responded	None	--
Texas (11)	Yes (for Dallas county only)	None	--
Wyoming (4)	No; never responded	None	--

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Other data sources

We also obtained vignettes describing the experiences of Latino/a youth in the juvenile justice and adult criminal justice systems from organizations serving Latino/a youth, the University of Michigan's Institute for Social Research, police departments in cities across the United States, and news sources including the *Los Angeles Times*, Reuters News Service, and the *Oakland Tribune*.

Finally, we met twice in Washington DC with representatives of a variety of Latino/a and youth-serving organizations, including national organizations and local community organizations:

ASPIRA Association
Bureau of Justice Assistance
Calvary Bilingual Multicultural Learning Center
Catholic Archdiocese Juvenile Detention Ministry
Center on Juvenile and Criminal Justice
Center for Young Women's Development
Community At Risk Services
Latin American Youth Center
Make the Road by Walking / Youth Power Project
Mexican American Legal Defense and Education Fund (MALDEF)
National Council of La Raza (NCLR)
National Latino Children's Institute (NLCI)
Prison Moratorium Project
Puerto Rican Legal Defense and Education Fund
Sermetro / Youth Opportunity Movement
St. Christopher's, Inc.
University of the District of Columbia
Youth Force
Youth Law Center

We provided the representatives with drafts of the report, including recommendations for action, and incorporated their feedback.

6. Findings

Finding 1

Latino/a youth are significantly over-represented in the U.S. justice system and receive harsher treatment than White youth, even when charged with the same offenses

Evidence of over-representation of Latino/a youth

Although state data gathering systems are inadequate and tend to mask the degree of over-representation and disproportionate waiver and confinement (see Finding 2), it is clear that Latinos/as are significantly over-represented in the justice systems of many states and that Latino/a youth receive harsher treatment than White youth for the same offenses.

Consider, for example, data on over-representation of Latino/a youth in the justice system:

- Between 1983 and 1991, the percentage of Latino/a youth in public detention centers increased by 84% compared to an 8% increase for White youth and 46% for youth overall (Building Blocks for Youth, 2001).
- Latinos/as constituted 24% of youth whose felony cases were filed in 18 adult criminal courts in 1998 (Juszkiewicz, 2000), although they comprised only about 12% of the general population.
- In 1993, Latino/a youth were three times more likely to be incarcerated than White youth (Poe-Yamagata & Jones, 2000).
- For youth released on bail in 18 adult criminal courts in 1998, the average bail amount was higher for Latinos/as ($13,556) than for either Whites ($10,174) or Blacks ($8,761) (Juszkiewicz, 2000).
- In 1998, Latino/a youth transferred to adult criminal court in 18 jurisdictions were 1.4 times as likely as White youth to receive a sentence of incarceration, as opposed to a split sentence or probation (37% for Latinos/as as opposed to 26% for Whites; Juszkiewicz, 2000).

Racial/Ethnic Disparities: More Time for the Same Crime

Research also demonstrates that Latino/a youth are treated more harshly than White youth, even when they are charged with the same offenses.

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A. Admission rates to state public facilities

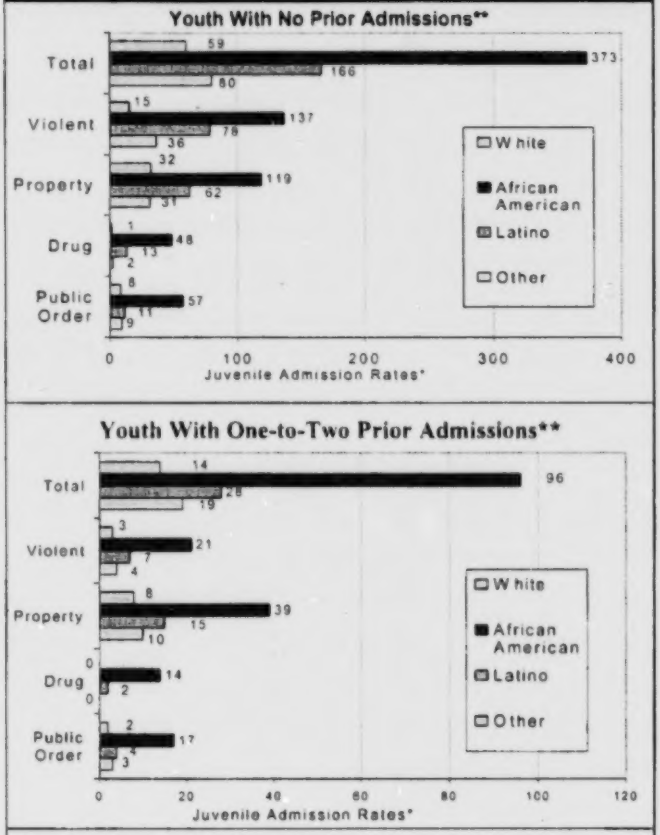
As Figure 5 shows, Latino/a youth are admitted to public facilities at much higher rates than White youth, even when charged with the same offenses. Among youth with *no prior admissions* to state facilities:

- For youth charged with drug offenses, the admission rate for Latino/a youth was 13 times the rate for White youth.
- For youth charged with violent offenses, the admission rate for Latino/a youth was more than 5 times the rate for White youth.
- For youth charged with property offenses, the admission rate for Latino/a youth was almost 2 times the rate for White youth.
- For youth charged with public order offenses, the admission rate for Latino/a youth was 1.3 times the rate for White youth.

Among youth with *one or two prior admissions* to state facilities:

- The admission rate for Latino/a youth was 2 times the rate for White youth, for *all* categories of offenses (violent, property, drug, public order).

Figure 5: 1993 Admissions Rates* of Juveniles to State Public Facilities



* Rates are calculated per 100,000 youth age 10 to the upper age of juvenile court jurisdiction in each state.

** States include AK, AZ, AR, CA, DE, GA, ID, IL, IN, IA, KY, LA, ME, MD, MA, MN, MS, MO, NE, NH, NE, NH, NJ, NY, ND, OH, OK, OR, SC, SD, TN, TX, UT, VT, VA, WV, WI.

Note: Persons of Hispanic origin may be of any race. White and African American categories do not include youth of Hispanic origin.

Totals contain offenses not shown.

Source: National Council on Crime and Delinquency. (1993). *The Juveniles Taken into Custody Research Program: Estimating the prevalence of juvenile custody rates by race and gender.* Reprinted in Poe-Yamagata, E., & Jones, M. (2000). *And justice for some.* Washington, DC: Building Blocks for Youth.

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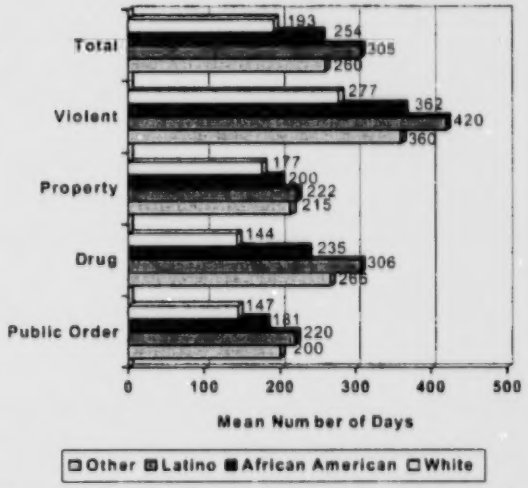
B. Average length of incarceration in state public facilities

Data from 1993 show that, in every offense category, the average length of incarceration was longer for Latino/a youth than for any other racial/ethnic group (National Council on Crime and Delinquency, 1993; see Figure 6).

- Latino/a youth charged with violent crimes spent an average of 143 days longer incarcerated than White youth charged with the same offenses—almost 5 months longer.
- Latino/a youth charged with property offenses were incarcerated an average of 45 days longer than White youth similarly charged.
- For drug offenses, Latino/a youth were incarcerated for more than twice the amount of time (306 days) as White youth (144 days) – more than 5 months longer.
- For public order offenses such as gambling and prostitution, which are the least serious, Latino/a youth spent more than 50% longer incarcerated than White youth (220 days vs. 147 days).

Figure 6: Youth Mean Lengths of Stay in State Public Facilities (1993)



Source: National Council on Crime and Delinquency (1993). *The Juveniles Taken Into Custody Research Program: Estimating the Prevalence of Juvenile Custody Rates by Race and Gender.* Washington, DC: Author.

NOTE: "Total" category contains offenses not depicted. White and African American categories do not include youth of Hispanic origin. Rates are calculated per 100,000 youth age 10 to the upper age of juvenile court jurisdiction in each state. States include AK, AZ, AR, CA, DE, GA, ID, IL, IN, IA, KY, LA, ME, MD, MA, MN, MS, MO, NE, NE, NH, NJ, NY, ND, OH, OK, OR, SC, SD, TN, TX, UT, VT, VA, WV, WI.

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It is particularly important to document disparate treatment of Latino/a youth because the proportion of Latino/a youth confined in California Youth Authority facilities has grown steadily over the past 20 years (from less than 20% to nearly 50%); in contrast, the percentage of White and Black youth confined has declined.

What is the scope of the problem of disproportionate representation of Latino/a youth in the U.S. justice system today?

Latino/a youth are disproportionately represented – and subjected to racial and ethnic bias – at each stage of interaction with the justice system.

Arrest and Detention

Data on arrest rate (i.e., the number of individuals of a particular group arrested per 100,000 citizens) and sentencing in adult and juvenile court provide disturbing evidence of disproportionate representation of Latinos/as. Table 3, for example, provides the arrest rates for Latinos/as, Whites, and Blacks in Los Angeles County in 1998.

Table 3
NUMBER OF JUVENILES ARRESTED FOR FELONIES PER 100,000 RESIDENTS
LOS ANGELES COUNTY (1998)

	Latino	*White*	*Black*
Felony arrests	1,989	1,126	5,049
Violent offenses	556	287	1911
Property offenses	917	568	2,282
Drug offenses	266	135	427
Sex offenses	33	15	98
Other offenses	218	122	331

Source: Hayes-Bautista & Nichols (2000), Table 2.19.

In other words, in Los Angeles County in 1998, compared to White youth, Latino/a youth were:

- 1.9 times as likely to be arrested for violent offenses.
- 1.6 times as likely to be arrested for property offenses.
- 2.0 times as likely to be arrested for drug offenses.
- 2.2 times as likely to be arrested for sex offenses.
- 1.8 times as likely to be arrested for other offenses.
- 1.8 times as likely to be arrested for felony offenses in general.

Although Los Angeles County has a higher proportion of Latino/a residents than other regions of the country, disproportionate representation of Latinos/as in other areas clearly occurs, and in some instances is far worse, as Table 4 shows.

Table 4
INDEX OF OVER-REPRESENTATION FOR LATINO/A YOUTH IN DETENTION, 1996

Arizona (Maricopa County)	1.5
Colorado	1.9
Connecticut	4.8
Massachusetts	2.1
Nevada (Washoe County)	1.4
New Jersey	1.5
New Mexico	1.2
New York	1.6
Oregon	1.3

Source: Hamparian, D., & Leiber, M. (1997). Disproportionate confinement of minority juveniles in secure facilities: 1996 national report. Champaign, IL: Community Research Associates.

Transfer of Youth from Juvenile Court to Adult Court (Waiver)

Waiver is the process of transferring a youth from the jurisdiction of the juvenile court to adult criminal court for the purpose of prosecution as an adult. Appendix G describes waiver processes permitted in each U.S. state.

Data from Los Angeles County provide evidence of disproportionate waiver of Latino/a youth to adult criminal court. In 1996, Whites comprised 25%, Latinos/as 51%, African Americans 13%, and Asians and other races 11% of Los Angeles County's population between ages 10 and 17. In contrast, Latinos/as and other youth of color combined accounted for an astounding 95% of the cases in which youth were found "unfit" for juvenile court and transferred to adult court in that year. Latino/a youth accounted for the largest percentage of cases found unfit (59%). Latino/a youth were 6 times more likely than White youth to be found unfit for juvenile court and waived to adult court in Los Angeles County (Males & Macallair, 2000).

Disposition and Sentencing

At the disposition and sentencing stage, Latino/a youth are sent to correctional facilities more often and for longer time periods than Whites who commit similar offenses (Poe-Yamagata & Jones, 2000). For example, Males and Macallair (2000) provided data indicating that Latino/a youth are 4 times as likely as White youth to be committed by juvenile court judges to the California Youth Authority, and 1.75 times as likely to be sentenced to the CYA by adult criminal court judges.

Commitment

The proportion of Latino/a youth confined in California Youth Authority facilities has grown steadily over the past 20 years, while the percentage of both White and Black youth confined has declined. The California Youth Authority reported that Latinos/as represented 49% of the youth incarcerated in their facilities in 1999 (CYA, June 2001), and projects that Latino/a youth will represent 65% of the juvenile justice system in that state within the next several years (Hayes-Bautista & Nichols, 2000). Moreover, there is evidence that Latino/a youth are subjected to harsher punishment in the juvenile court system (Poe-Yamagata & Jones, 2000). The percentage of Latino/a youth in adult state

prisons is also larger than the percentage of Latino/a youth in the general U.S. population (Strom, 2000).

Table 5 presents indices of disproportionality for Latino/a youth in residential placement in each of the 50 U.S. states and the District of Columbia in 1999.

Table 5
INDICES OF DISPROPORTIONALITY FOR LATINO/A YOUTH IN RESIDENTIAL PLACEMENT (1999)

	Total youth (10-17)	*Latino/a youth (10-17)*	*Percent Latino/a youth (10-17)*	*Total youth in residential placement*	*Latino/a youth in residential placement*	*Percent Latino/a youth in residential placement*	*Index of disproportionality*[1]
AL	477,563	6,101	1.3%	1,550	15	1.0%	0.8
AK	91,197	3,598	3.9%	340	15	4.4%	1.1
AZ	568,426	168,012	29.6%	1,898	792	41.7%	1.4
AR	301,915	8,736	3.0%	699	12	1.7%	0.6
CA	3,708,721	1,445,624	39.0%	13,951	6,450	46.2%	1.2
CO	485,774	92,203	19.0%	1,616	543	33.6%	1.8
CT	372,161	41,971	11.3%	926	258	27.9%	2.5
DE	80,514	3,885	4.8%	320	12	3.8%	0.8
FL	1,594,638	271,353	17.0%	6,144	495	8.1%	0.5
GA	899,666	34,162	3.8%	3,573	45	1.3%	0.3
HI	122,726	13,308	10.8%	100	12	12.0%	1.1
ID	163,634	15,892	9.7%	321	48	15.0%	2.7
IL	1,385,399	186,201	13.4%	3,459	396	11.4%	0.9
IN	690,655	22,910	3.3%	2,527	78	3.1%	0.9
IA	343,147	9,845	2.9%	1,017	54	5.3%	1.8
KS	327,094	23,768	7.3%	1,098	144	13.1%	1.8
KY	440,709	4,600	1.0%	1,146	6	0.5%	0.5
LA	550,067	14,636	2.7%	2,394	30	1.3%	0.5
ME	145,269	1,125	0.8%	218	3	1.4%	1.8
MD	585,993	25,835	4.4%	1,411	27	1.9%	0.4
MA	654,547	57,912	8.8%	1,089	384	35.3%	4.0
MI	1,185,807	41,346	3.5%	3,814	372	9.8%	2.8
MN	606,985	14,694	2.4%	1,577	87	5.5%	2.3
MS	341,977	3,105	0.9%	784	105	13.4%	14.9
MO	650,332	12,958	2.0%	1,152	18	1.6%	0.8
MT	111,887	2,432	2.2%	237	15	6.3%	2.9
NE	210,269	12,866	6.1%	687	93	13.5%	2.2
NV	208,836	45,605	21.8%	732	132	18.0%	0.8
NH	146,159	2,941	2.0%	216	15	6.9%	3.5
NJ	874,740	129,720	14.8%	1,894	333	17.6%	1.2
NM	225,971	104,712	46.3%	813	519	63.8%	1.4
NY	1,918,566	331,855	17.3%	4,609	351	7.6%	0.4
NC	854,242	26,025	3.0%	1,429	30	2.1%	0.7
ND	79,123	1,112	1.4%	223	6	2.7%	1.9
OH	1,314,251	27,393	2.1%	4,051	108	2.7%	1.3
OK	411,257	22,216	5.4%	1,063	60	5.6%	1.0
OR	383,238	34,699	9.1%	1,075	117	10.9%	1.2
PA	1,339,323	49,318	3.7%	3,237	360	11.1%	3.0
RI	109,028	9,846	9.0%	265	57	21.5%	2.4
SC	432,468	7,180	1.7%	1,554	3	0.2%	0.1
SD	95,370	1,398	1.5%	570	15	2.6%	1.7
TN	598,237	9,292	1.6%	1,360	9	0.7%	0.4
TX	2,474,539	894,122	36.1%	6,706	2,568	38.3%	1.1
UT	307,959	23,920	7.8%	880	147	16.7%	2.1
VT	69,486	637	0.9%	67	0	0.0%	0.0
VA	742,923	34,008	4.6%	2662	99	3.7%	0.8
WA	683,116	61,016	8.9%	1,854	183	9.9%	1.1
DC	36,766	3,140	8.5%	229	12	5.2%	0.6
WV	192,103	1,204	0.6%	316	3	0.9%	1.5
WI	651,918	23,280	3.6%	1,870	150	8.0%	2.2
WY	63,579	4,592	7.2%	298	36	12.1%	1.7

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This index was calculated by dividing percent Latino youth in residential placement by percent Latino youth.
Source: Snyder, Poole, & Wan (2000). Easy access to juvenile populations. Online. Office of Juvenile Justice and Delinquency Prevention (OJJDP) web site. Available at www.ojjdp.ncjrs.org/ojstatbb/ezapop/.

Data from Arizona show the disproportionate representation of Latino youth at all stages of processing (see Table 6):

Table 6
JUVENILES PROCESSED IN THE ARIZONA COURT SYSTEM (FY 2000):
PERCENTAGES BY RACE/ETHNICITY AND INDICES OF DISPROPORTIONALITY

	Latino/a	*African American*	*White*	*Native American*	*Asian/ Pacific Islander*	*Other*	*Unknown*
% General population (10-17)*	29.6%	4.7%	84.4%	8.4%	2.5%		
Referred	35.7% 1.2	6.3% 1.3	50.4% 0.6	5.8% 0.7	0.6% 0.2	0.4%	0.7%
Diverted	34.9% 1.2	5.3% 1.1	52.8% 0.6	4.9% 0.6	0.7% 0.3	0.3%	1.1%
Petitions filed	38.8% 1.3	7.8% 1.6	46.4% 0.6	5.8% 0.7	0.5% 0.2	0.4%	0.3%
Dismissed	40.9% 1.4	8.0% 1.7	42.9% 0.5	4.8% 0.6	0.3% 0.1	1.7%	1.4%
Penalty only	43.8% 1.5	6.1% 1.3	42.2% 0.5	6.9% 0.8	0.4% 0.2	0.5%	0.0%
Standard probation	36.2% 1.2	7.1% 1.5	49.6% 0.6	6.1% 0.7	0.6% 0.2	0.4%	0.1%
Juvenile intensive probation supervision	43.1% 1.5	7.1% 1.5	45.2% 0.5	4.1% 0.5	0.3% 0.1	0.2%	0.0%
Disposition Arizona Department of Juvenile Corrections	45.9% 1.6	10.3% 2.2	37.8% 0.4	5.4% 0.6	0.3% 0.1	0.2%	0.0%
Direct file petition	48.9% 1.7	11.7% 2.5	32.5% 0.4	5.0% 0.6	0.5% 0.2	0.0%	1.3%
Transferred	38.1% 1.3	11.6% 2.4	48.3% 0.6	2.0% 0.2	0.0% 0.0	0.0%	0.0%
Detained	39.2% 1.3	8.2% 1.7	44.2%	7.1% 0.8	0.6% 0.2	0.6%	0.2%

			05				

Source: *Juveniles Processed in the Arizona Court System FY00*. Available at http://www.supreme.state.az.us/jsd/

*Source for general population statistics: Snyder, Poole, and Wan (2000). Easy Access to Juvenile Populations. Available at http://www.ojjdp.ncjrs.org/ojstatbb/ezapop

NOTE: Total population is the sum of the 4 race categories provided by Arizona: African American (4.7%) + White (84.4%) + Native American (8.4%) + Asian/Pacific Islander (2.5%). We included a column with the percentage of Latino youth ages 10-17 in Arizona (29.6%) for purposes of calculating indices of disproportionality.

Similarly, Human Rights Watch (2002) reported that Latino/a youth are confined in institutional placements at higher rates than Whites in 39 states, and at more than 3 times the rate of Whites in eight states: Connecticut, Michigan, North Dakota, Pennsylvania, South Dakota, Vermont, West Virginia, and Wisconsin (Human Rights Watch, 2002; available at http://www.hrw.org/press/2002/02/race-227.htm) (See Table 7).

Table 7

RATES OF CONFINEMENT IN JUVENILE DETENTION FACILITIES BY RACE

	White	*Black*	*Latino*	*Black/White Ratio*	*Latino/White Ratio*
AL	112	242	96	2.2	0.9
AK	111	316	302	2.8	2.7
AZ	80	357	139	4.5	1.7
AR	94	283	112	3.0	1.2
CA	100	502	169	5.0	1.7
CO	121	453	296	3.7	2.5
CT	56	334	208	6.0	3.8
DE	23	127	15	5.5	0.6
DC	7	51	9	7.0	1.2
FL	141	337	101	2.4	0.7
GA	135	314	72	2.3	0.5
HI	61	68	88	1.1	1.5
ID	156	263	179	1.7	1.1
IL	89	285	67	3.2	0.8
IN	143	489	196	3.4	1.4
IA	138	762	275	5.5	2.0
KS	117	587	210	5.0	1.8
KY	120	470	244	3.9	2.0
LA	82	372	55	4.5	0.7
ME	125	272	279	2.2	2.2
MD	73	261	79	3.6	1.1
MA	113	393	276	3.5	2.4
MI	89	369	647	4.1	7.2
MN	97	491	198	5.0	2.0
MS	126	233	224	1.8	1.8
MO	130	388	131	3.0	1.0
MT	128	434	245	3.4	1.9
NE	222	1145	465	5.2	2.1
NV	163	473	126	2.9	0.8
NH	129	551	205	4.3	1.6
NJ	42	377	109	9.1	2.6
NM	73	234	118	3.2	1.6
NY	82	385	158	4.7	1.9
NC	83	196	45	2.4	0.5
ND	102	381	687	3.7	6.7
OH	92	371	185	4.0	2.0
OK	136	306	114	2.2	0.8
OR	147	413	299	2.8	2.0
PA	115	687	515	6.0	4.5
RI	94	584	226	6.2	2.4
SC	111	269	64	2.4	0.6
SD	181	2667	1283	14.8	7.1

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TN	141	322	144	2.3	1.0
TX	105	302	117	2.9	1.1
UT	145	705	240	4.9	1.7
VT	74	646	436	8.8	5.9
VA	114	397	149	3.5	1.3
WA	110	502	248	4.6	2.3
WV	105	398	361	3.8	3.4
WI	72	629	222	8.7	3.1
WY	249	1092	515	4.4	2.1
National	**105**	**350**	**159**	**3.3**	**1.5**

Source: Human Rights Watch (2002), Table 6. Available at http://hrw.org/backgrounder/usa/race

Note: Juvenile detention centers include homes for neglected children, residential treatment centers, and detention centers, among others listed by the U.S. Census Bureau.

In addition, Latino/a youth are incarcerated at rates 7 to 17 times greater than those of Whites in four states: Connecticut, Hawaii, Massachusetts, and New Hampshire (Human Rights Watch, 2002; see Table 8) (available at http://www.hrw.org/press/2002/02/race-227.htm

Table 8

INCARCERATION OF LATINO/A YOUTH UNDER AGE 18

	White	*Black*	*Latino*	*Black/White Ratio*	***Latino/White Ratio***
AL	10	44	28	4.7	**2.9**
AK	14	14	10	1.0	**0.7**
AZ	50	192	81	3.9	**1.6**
AR	33	129	31	4.0	**1.0**
CA	15	37	18	2.6	**1.3**
CO	10	58	20	5.9	**2.1**
CT	11	254	125	22.2	**10.9**
DE	2	23	7	14.6	**4.6**
DC	0	44	9	n/a	**n/a**
FL	18	119	23	6.8	**1.3**
GA	15	92	20	6.1	**1.3**
HI	2	0	17	n/a	**7.6**
ID	18	53	33	2.9	**1.8**
IL	13	87	17	6.7	**1.3**
IN	22	150	26	6.8	**1.2**
IA	5	127	28	25.1	**5.4**
KS	10	67	19	7.0	**2.0**
KY	15	52	32	3.4	**2.1**
LA	26	91	16	3.5	**0.6**
ME	1	0	0	0.0	**0.0**
MD	6	56	3	8.8	**0.4**
MA	5	59	43	12.0	**8.8**
MI	22	65	35	2.9	**1.6**
MN	7	19	9	2.9	**1.4**
MS	13	88	50	6.6	**3.8**
MO	17	74	26	4.2	**1.5**
MT	19	434	82	22.6	**4.3**
NE	9	45	11	5.2	**1.2**
NV	22	120	62	5.4	**2.8**
NH	6	37	103	6.2	**17.5**
NJ	1	20	7	15.4	**5.7**
NM	42	206	73	4.9	**1.8**
NY	14	119	34	8.3	**2.4**
NC	19	90	17	4.7	**0.9**
ND	1	0	0	0.0	**0.0**
OH	14	60	27	4.3	**2.0**
OK	7	43	10	6.5	**1.5**
OR	19	184	28	9.8	**1.5**
PA	7	54	43	7.4	**5.9**
RI	0	19	6	n/a	**n/a**

SC	29	94	7	3.3	0.2
SD	48	248	177	5.2	3.7
TN	6	26	15	4.5	2.7
TX	41	159	49	3.9	1.2
UT	21	48	29	2.3	1.4
VT	12	0	54	0.0	4.5
VA	14	59	9	4.3	0.6
WA	9	75	19	7.9	2.0
WV	6	7	0	1.1	0.0
WI	29	182	41	6.3	1.4
WY	43	91	26	2.1	0.6
National	**16**	**86**	**32**	**5.3**	**2.0**

Source: Human Rights Watch (2002), Table 7. Available at http://hrw.org/backgrounder/usa/race
Note: Figures calculated on basis of U.S. Census Bureau data from Census 2000 on state residents and incarcerated population. Confinement facilities include prisons, federal detention centers, military disciplinary barracks and jails, police lockups, half-way houses used for correctional purposes, local jails, work farms and others.

However, there is some indication of reductions in disproportionate minority representation in other states. For example, data from Ohio reveal that the percentage of Latino youth committed for felonies decreased 19% from 1996 (2.6%) to 2000 (2.1%), the same time period during which the percentage of White youth committed for felonies increased 14% and the percentage of Black youth committed for felonies increased 8% (see Table 9).

It is unclear why there was a reduction in the percentage of Latino youth committed for felonies in Ohio during this time period. However, this reduction occurred at a time when *all* youth commitments were declining in Ohio by 19.4%. Thus, the 19% decline in Latino/a commitments was commensurate with the overall decline in commitments in Ohio.

Table 9
NUMBER AND PERCENT OF YOUTH BY RACE/ETHNICITY COMMITTED FOR FELONIES: OHIO (1996-2000)

Category	*1996*	*1997*	*1998*	*1999*	*2000*
Latino	74	65	49	50	47
	2.6%	2.6%	2.1%	2.2%	2.1%
White	1,275	1,187	1,185	1,136	1,144
	45.2%	46.9%	50.3%	50.0%	51.6%
Black	1,409	1,233	1,080	1,024	952
	49.9%	48.7%	45.8%	45.1%	54.0%

Source: Table 3, Ohio Department of Youth Services Commitment/Regional Trend Reports (FYs 1996-1997 through 1999-2000).

In contrast, commitments for incarceration of Latino/a youth in New Jersey increased from 1998 (203) to 1999 (268), but then declined again in 2000 (180). These data might suggest recent progress for Latino/a youth; however, the Latino/a pattern in New Jersey simply mirrored the increasing-then-decreasing commitment pattern of all youth incarcerated in the state during the 1998-2000 time period (survey data provided by the State of New Jersey).

Implications of these findings

In the United States generally, Latino/a youth are disproportionately arrested, detained, and waived to adult criminal court. Their sentences are harsher and their commitments are for longer periods of time than those for White youth committing the same offenses.

Disproportionate representation and disparate treatment of Latino/a youth in the justice system is more evident in some states than in others. For example, indices of disproportionality for Latino/a youth in residential placement in 1999 were greater than 2.0 for 26% of U.S. States: Mississippi (14.9), Massachusetts (4.0), New Hampshire (3.5), Pennsylvania (3.0), Montana (2.9), Michigan (2.8), Idaho (2.7), Connecticut (2.5), Rhode Island (2.4), Minnesota (2.3), Nebraska (2.2), Wisconsin (2.2), and Utah (2.1). Disproportionate numbers of Latino/a youth are reported in the juvenile justice system in many of the states with large Latino/a populations: California, Texas, Arizona, Colorado, Nevada. All of these states in particular must examine their commitment procedures and find ways to reduce the disparate treatment of Latino/a youth.

It is important to keep in mind that reporting procedures are not uniform across states, so it is difficult to assess the accuracy of indices of disproportionality. The surprisingly low indices in Florida, New York, and the District of Columbia, among others, indicate concerns about data gathering methods (see Finding #2, below).

Potential strategies for addressing this problem

- The Census Bureau and the Justice Department should conduct an independent review of all states that documents the methods for addressing issues of Latino/a disproportionality. Most notably, states should share their strategies for documenting Latino/a youth in the justice system. Based on this review, a common strategy can be developed for all states that would facilitate an accurate and consistent methodology to monitor and implement documentation of Latinos/as who come into contact with the justice system.
- Revamp risk assessment procedures, as successfully done in Santa Cruz County, California and Multnomah County (Portland), Oregon (discussed in Section 7 of this report).

Finding 2
Current means for collecting and accessing data are inadequate, resulting in under-counting and inaccuracies in reporting disproportionate representation and disparate treatment of Latino/a youth in the U.S. justice system

Why the system must change: Bureaucratic difficulties in obtaining information

One strategy we used for collecting data on disproportionate representation of Latino/a youth was to ask the Director of Juvenile Justice or designated staff person to respond to a short survey (see Appendix E) and then to provide us with statewide data sets on Latino/a youth in the justice system in their state. Because the federal government expects each state to collect such data, we thought that completing this process would be relatively straightforward.

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However, obtaining data from states is a complex and frustrating process. For example, although the state representative from Ohio responded after only one telephone call, most states required 6 or more calls. Obtaining usable responses from California required a total of 17 phone calls; other states also required extensive follow-up: Michigan 10 calls, Texas 11 calls, and Pennsylvania 13 calls.

> *When we contacted **California** about participation in our survey, the state's DMC coordinator completed the survey and referred us to the state's Department of Justice (DOJ), where data are kept in the Juvenile Court and Probation Statistical System. DOJ's representative informed us that no statewide data were available, so we would need to specify from which counties we wanted to receive data. Subsequently, when we asked for the data for specific counties for the past 5 years, we were told that the information was not available. We also were told that the system had been deactivated and subsequently reactivated in 1997 and that some of the counties we had chosen did not have data available. Finally, the contact person indicated that she had to get special permission to release the data to us because the department had only released such data to the government prior to our request. After waiting 4 months, we contacted another source at the California Youth Authority; an individual from CYA completed the state survey (again) and supplied a dataset (but one that was different from the one originally promised to us).*
>
> *We contacted the Director of Juvenile Justice in **New Mexico**, and followed up the contact with a fax and a phone call. However, the department informed us that the director we had been instructed to contact no longer was with the department, and that three or four new directors had come and gone since his departure. The department asked us to fax the survey again; we resubmitted the survey and made several more follow-up phone calls. In our initial conversation with the department, the contact person had indicated that there were no problems in being able to participate in the survey, but she was not sure about some of the questions and needed to obtain information from other divisions. She asked that we call her again on a certain date at a specific time, but she was not available when we returned the call. We subsequently left 8 messages with the department, but the calls never were returned. Finally, after 8 months, we received a completed survey (but no data set) from New Mexico.*
>
> *After our initial contact with the Juvenile Justice Department in **Illinois**, the department contacted us to refer us to a more appropriate person. However, the contact number supplied was incorrect, so we had to make several additional phone calls in order to locate the correct person. Eventually, we were able to contact a juvenile justice specialist. This specialist had the survey, but had not yet had time to work on it. He asked if he could look at it later in the week and return it to us the following week. After more than a week, we contacted the specialist again. He responded that he still had not completed the survey, but would send it that week. After another week had passed, we called again. The specialist informed us that he would no longer be working with the department and was passing the survey on to his replacement. He told us that he had access to the data sets we sought and that he would fax the information to us that day. He never followed through, despite numerous follow-up phone calls. Several months*

later, after a new Juvenile Justice Specialist had been hired, Illinois sent us a completed survey (but no data set).

Frustrating bureaucratic procedures, unreturned phone calls, and staff turnover are all-too-common problems encountered by those seeking data from the states. Our experience demonstrates the roadblocks that community organizations, policymakers, the press, and the public find when they try to obtain basic information about youth in the justice system. The unresponsiveness of the bureaucracies, in turn, stifles efforts to bring about change.

Moreover, most states in our survey failed to provide responses to our inquiry regarding why they did not collect data on Latino/a youth in the justice system. For some states, Latino/a immigration is a relatively recent phenomenon; in prior years, therefore, it was not necessary to collect data on Latinos/as in the system. For example, when North Carolina was asked why the state did not collect data on Latino/a youth in the justice system, a government worker responded, "It was not an issue until the population boomed." Other states, however, cannot make such claims. New York and several southwestern states, for example, have had significant Latino/a populations for decades. In addition, even states that have small populations of people of color should keep data on Latino/a youth, as they are required to do by law.

States' reports of changing Latino/a demographics

We asked each state to report how changing demographics had affected adjudication of Latino/a youth in the last two to three years. Responses to this question varied widely in the states we surveyed. Generally speaking, however, states did not provide particularly useful responses to this inquiry. For example:

- Both **California** and **Texas** reported an increase in Latino/a population, as well as increases in arrests, detentions, and confinement of Latino/a youth ages 10-17; however, neither state indicated how these changing demographics had influenced justice system procedures.
- **North Carolina** reported a 330% increase in Latino/a youth since 1990 and speculated that there "probably will be an increase in juvenile crime committed by Latinos/as, especially within the second generation." (It should be noted, however, that North Carolina's population base of Latinos/as was relatively small in 1990, so the finding that the state experienced a large percentage increase in Latino/a population should be interpreted with caution.)
- **New Mexico** noted that, until recently, it was a "majority minority" state (that is, more Latinos/as in the population than Whites), and that incarceration rates matched the general population statistics. Now, however, the state reports that it is difficult to know why incarceration rates have changed and notes that many citizens are confused by the terms *race* and *ethnicity*.
- **Ohio**, on the other hand, reported no change in adjudication of Latino/a youth. (Ohio had only a 1% increase in Latino/a youth in residence.)
- In contrast, **Arizona** noted that the overall Latino/a youth population had increased over the last 10 years to 29.2%, whereas the percentage of youth committed to the Arizona Department of Juvenile Corrections had remained stable at 43-44% for the past 5 years.

What are the barriers to collecting data on Latino/a youth in the justice system?

Several barriers to accurate data collection currently plague the system. Kentucky provides one example. Observations of Kentucky's DMC activities in 1999 resulted in the conclusion that the state's information systems were incomplete and that serious concerns existed regarding whether data were being collected routinely (Kentucky Department of Juvenile Justice, 2000). "Perhaps most troubling," the state's report noted, "is that the source of data from which most information on cases is available is a source that hasn't routinely kept good information on race" (Kentucky Department of Juvenile Justice, 2000, p. 24). After reviewing the existing data systems in the state, Kentucky's research and statistics field coordinator noted the following limitations and potential obstacles:

- Very few agencies or organizations have electronically coded their statewide data.
- Coding information has been inconsistent and time gaps have occurred when data were/were not being collected. For example, some computerized information, such as the race of offenders, is missing because the focus of data collection was case management rather than aggregate analysis.
- Critical data elements such as race/ethnicity, gender, age, and offense type are not uniformly collected throughout the juvenile justice system.
- Race/ethnicity often is coded differently from agency to agency. (Kentucky Department of Juvenile Justice, 2000, p. 27).

States' responses to our survey echoed these concerns. When asked about barriers to collecting data on Latino/a youth in the justice system, states' responses fell into these general categories:

- State personnel have insufficient resources and/or time to collect data. During difficult economic times, especially when state budgets are being slashed, this barrier is likely to become even more daunting.
- Departmental procedures for collecting information across jurisdictions and agencies are inconsistent. These inconsistencies result in comparing "apples" and "oranges."
    - States use different methods for collecting and presenting information on Latino/a populations in the justice system, including varying definitions of the terms *Latino* and *Hispanic*. "These are subjective, not objective, labels," noted one respondent from Michigan. In New Mexico, law enforcement personnel determine ethnicity for police reports—a difficult task when definitions of race and ethnicity are unclear. In other states, youth may identify with a particular ethnic group whether others agree or not.
    - Some states compile data at the county level. According to a respondent from California, there are differences of interpretation of data among counties.
    - Other states collect data only at the state level. Use of different methodologies in different states makes it difficult to access state-level data. As a result, requests for information may require a frustrating series of telephone calls or contacts rather than more efficient "one-stop shopping" for information. (See box, pages 41-42).

- Systems for gathering data in many states do not have a "Latino" or "Hispanic" category. They also may fail to separate ethnicity from race so that Latino/a youth often are counted as White and sometimes as Black. As a result, data on the extent to which the Latino/a population is over-represented in the juvenile justice system often are inaccurate, inappropriately minimizing the degree of Latino/a over-representation and exaggerating the incarceration rates of non-Hispanic Whites (Holman, 2001).
- State personnel have difficulty working with multiple agencies. A respondent from North Carolina reported problems in obtaining the proper forms to distinguish between ethnicity and race and indicated that a state worker must deal with 3 different departments in order to obtain the necessary data. Other respondents noted frustrations related to the need to deal with multiple departments in order to obtain the necessary information.
- States employ too few employees who are bilingual and knowledgeable about various Latino/a cultures. As a result, data often are inaccurate or incomplete. A respondent from New Mexico noted that documents are in English only, staff are not required to be bilingual, but documents often need to be translated. Representatives from North Carolina and Ohio also opined that language barriers and special cultural needs were challenges that had not been adequately addressed to date. Even Texas, which has a significant Latino/a population, reported that it was difficult to find bilingual employees.

Implications of these findings

Current methods for recording and gathering data obstruct attempts to understand the magnitude of the problem of over-representation and disparate treatment of Latino/a youth in the justice system. Critical pieces of information often are missing, variables are not specified in detail, terminology is inconsistently used, and information is not consistently reported across jurisdictions. There is little incentive—and scant resources—for states to provide data to researchers. Yet without research it is not possible to understand the nature or extent of the problem, or to fully develop effective solutions.

Moreover, as Leonard, Pope and Feyerherm (1995) noted, "The more our reporting systems aggregate (combine) data, from place to city to county to state, the more likely that evidence of racial disparity will be lost or hidden" (p. 9). These problems make cross-state comparisons difficult, if not impossible.

In addition, the lack of accurate, consistent Latino/a data inhibits researchers' ability to separate Latino/a data from the data of other racial/ethnic groups in reports that may critically impact changes in policy and access to funds for services. To the extent a jurisdiction is trying to make an accurate analysis of disproportionate confinement of youth of color, as is required by federal law, counting large numbers of Latino/a youth in the "White" category clearly inflates the White incarceration rate and masks the already substantial rates of disproportionality between White youth and youth of color.

In order to determine whether adjudication of Latino/a youth is proportionate over time, states must keep accurate data on race/ethnicity of youth, both in the state and in the state's justice system. Failure to collect data that reflect changing demographics results in inaccurate and/or incomplete information on youth and their families, both within states and across states. As a result, valid and reliable data on youth involvement in the justice system are not available.

Moreover, in order to more accurately document issues of disproportionality and disparate treatment, states experiencing rapid growth in Latino/a population (50%+)—for example, North Carolina and Nebraska—should use weighted data to standardize the growth in rates of adjudication. Such states might, for example, use three-year weightings instead of annual data to minimize variability caused by rapid demographic shifts.

Potential strategies for addressing this problem

This area clearly requires the convening power of the federal government. This report and others reveal data collection in the area of Latino/a youth confinement rates to be a sham, making it virtually impossible for states to say whether or not they are complying with the disproportionate minority confinement provisions of the Juvenile Justice and Delinquency Prevention Act. Therefore, Congress should immediately establish a high-level task force with representation from academia; community organizations; and federal, state, and local government to grapple with this issue and agree upon uniform standards to:

- Establish a centralized national database of county-level data to track the problems of disproportionate representation and disparate treatment of Latino/a youth in the U.S. justice system.
- Develop a systematic, uniform monitoring procedure to determine the percentage of Latino/a youth being processed at each stage of interaction with the justice system in each county across the United States.
- Provide training to personnel in each of the 50 states and the District of Columbia regarding how to collect data.
- Designate a national Hispanic organization (e.g., Mexican American Legal Defense and Education Fund, National Council of La Raza) to become a national repository for data pertaining to Latino/a juveniles in the justice system and to release periodic reports that document progress on issues pertaining to Latino/a youth involvement in the justice system. Require states to provide data annually.
- Fund a national organization, in collaboration with officials from the justice system, to conduct a census of youth institutions (public and private) to determine current incarceration of Latino/a youth.
- Fund a national organization, in collaboration with officials from the justice system, to conduct a census of juvenile court records in multiple states, as well as counties within states (high, medium, and low Latino/a population density) to analyze court processing and adjudication of Latino/a youth.
- Require all states to gather data in a manner that includes a "Latino" or a "Hispanic" category that allows for the separation of ethnicity from race. In this way, Latino/a youth will not under-counted because they can only be counted in the racial categories of White, Black, Asian and Native American. Conduct an internal audit of states to ensure that adequate procedures are used to distinguish between ethnicity and race.
- Require OJJDP, in collaboration with state and municipal agencies, to develop a common reporting mechanism for documentation of Latino/a race/ethnicity.
- Require states to collect data and establish databases at the county level to ensure accurate information regarding Latino/a youth interactions with the justice system.

In addition, federal, state and local jurisdictions should:

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- Encourage counties with large Latino/a populations to replicate policing procedures used in Seattle (WA), Santa Cruz County (CA), and Portland (OR) to determine whether Latino/a youth are disproportionately "profiled." (See Section 7, "Promising Approaches," for a description of sample procedures.)
- Employ more bilingual professionals who have demonstrated competencies across Latino/a communities to work with state agencies to ensure the accuracy of information from families and youth who are predominantly Spanish-speaking.
- Apply sanctions to states that fail to collect data as required by the Juvenile Justice and Delinquency Prevention Act.
- Ensure that states have all documents available in Spanish in order to minimize interpretive errors.

Finding 3
The system does not provide uniform definitions for the terms *Latino* and *Hispanic*

Is "Juanita" Latina?

Juanita Turner-Garcia is a biracial child who has just been arrested and detained for questioning. Her father is Puerto Rican, and her mother is African American. How should the justice system categorize Juanita's race/ethnicity? The answer to that question depends upon Juanita's state of residence. For example,

- *In Arizona, Juanita would define her own race/ethnicity;*
- *In California, she would be assigned to the category of "African American;"*
- *In Michigan, she would be classified as "Hispanic" as well as being assigned to a specific racial group; and*
- *In Ohio, she would be listed as "biracial."*

Note: Juanita is a hypothetical example. Source for state definitions is the survey of states conducted for this report.

How states define the terms *Latino/a* and *Hispanic*

As Table 10 shows, among the states we surveyed, there is no uniform approach to defining the terms *Latino* and *Hispanic*. Some states' definitions are based upon race, whereas others use ethnicity or even skin tone as the defining variable. As Table 10 also shows, no state responding to our survey routinely records the specific Latino/a subgroup to which a youth belongs.

Table 10
SURVEY RESPONDENTS' DESCRIPTIONS OF HOW STATES DEFINE THE TERM *LATINO/A*

State	*Basis for definition*	*Are ethnic subgroups disaggregated from the general category of Latino/a?*
Arizona	Youth defines his/her ethnicity	No
California	Youth defines his/her ethnicity but, according to survey respondent, "wards of mixed origin are assigned to the darkest skin group of their reported racial heritage"*	No
Illinois	Youth reports his/her own ethnicity	No
Michigan	"Hispanic" is an ethnicity separate from race	No
New Mexico	Youth reports his/her own ethnicity	No
North Carolina	Youth are assigned to categories by adult recorders	No
Ohio	Youth listed as biracial	No

*When we asked for further clarification of this definition from other sources, two employees of the California Youth Authority informed us that youth choose their own

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racial identification. Each race category also includes a subcategory for ethnicity. Thus, for example, if a youth self-identifies as "African-American" and "Hispanic," then the youth is said to be African-American with a subtype of Hispanic.

Implications of these findings

Because no uniform system exists for defining Latino/a race/ethnicity, cross-state comparisons of data about Latino/a youth are inaccurate. Until a uniform definition and reporting system exists, we cannot determine the true extent of disproportionate representation and disparate treatment of Latinos/as in the justice system, thus running the risk of inflating the White youth confinement rate and underestimating the Latino/a youth confinement rate.

Potential strategies for addressing this problem

- Establish a high-level, national task force, as described in Finding #2.
- Alternatively, the Office of Juvenile Justice and Delinquency Prevention, in collaboration with state and local agencies, should develop a common reporting mechanism for documentation of Latino/a race and ethnicity. This strategy should be employed at all levels of the juvenile justice system—including police stops and arrests, detention, court proceedings, probation, state commitment agencies, etc.—to ensure accurate and consistent data at all levels.
- States should adopt an approach of permitting youth to identify their own race and/or ethnicity. In addition, given the growing rate of multiracial and inter-ethnic marriages and families in the U.S. and internationally, multiracial and multi-ethnic youth should be able to identify and report their diverse heritage, and should not be required to select a single racial or ethnic category. Consideration should be given to methods for avoiding duplicate reporting, over-statement, under-counting, or other inaccuracies in reporting numbers of youth in the system.

Finding 4
The system fails to separate ethnicity from race

How should race be defined for Latinos/as?

Rosa, José, and Maria all were born in the Dominican Republic and immigrated to the United States; all three, therefore, are Latino/a. However:

- *Rosa's ancestors were slaves brought from Africa. The Dominican Republic considers her to be Black.*
- *José's ancestry is a mix of Spanish colonists and the native Taino people. He is classified as "White" by the Dominican Republic.*
- *Maria's mother is Black and her father is White. The Dominican Republic classifies Maria as "Mulatta."*

How should Rosa, José, and Maria define their race? Who should indicate "Latino"? "Hispanic"? "White"? "Black"? "Biracial"? "Mulatto"? If Rosa is classified as "Black" and José as "White," do these government designations exclude them from being considered "Latino/a?"

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NOTE: Rosa, José, and María are hypothetical examples.

Persons of Hispanic and Latino heritage can be of any race; they also can choose to identify their race as Latino/a or Hispanic. However, current data gathering systems generally fail to account for these facts.

Why is it important to separate race from ethnicity?

The 2000 Census shows that America's racial/ethnic composition is changing rapidly (U.S. Census Bureau, 2001). For example, the Latino/a population grew by 60% during the 1990s, making the number of Latinos/as equal to the number of African Americans in the U.S. (Holman, 2001). However, the conclusion that there are equal numbers of African Americans and Latinos/as may not be accurate. Typically, African Americans are accurately represented in demographics that include the category of race, whereas Latinos/as are not. According to the Census Bureau, 96% of Latinos/as in America choose "White" or "Other" as their race (Inter-University Program for Latino/a Research, 2001). The racial categories used in the 2000 Census did not include a "Latino" or "Hispanic" category, which confused many Latino/a respondents to the Census questionnaire. They had no choice but to report their race as "White" or "Other." The lack of a discrete "Latino" or "Hispanic" category choice for the 2000 Census question about racial identity may have caused an underreporting of Hispanic/Latino/a population numbers. As of July 1, 1997, the U.S. Census reported that Latinos/as were counted as 13.7% of the White population, 5.1% of the Black population, 17.6% of the American Indian/Alaska Native population, and 6.3% of the Asian and Pacific Islander population (available at www.census.gov/population/estimates/rho.txt).

The impact of this situation is amply demonstrated in a report entitled *Masking the Divide: How Officially Reported Prison Statistics Distort the Racial And Ethnic Realities of Prison Growth* (Holman, 2001). Using data from this report, Table 11 shows the percentage of prisoners in selected states in 1997 by race/ethnicity before and after removing Hispanics/Latinos/as from race categories. This table provides compelling evidence that failure to include a Latino/a racial category or to separate ethnicity from race often results in dramatic over-reporting of the percentage of Whites incarcerated, and therefore significant under-reporting of the percentage of Latinos/as incarcerated.

Table 11
THE EFFECT OF REMOVING LATINOS/AS FROM THE "WHITE" RACIAL CATEGORY: PRISONERS INCARCERATED IN 1997

	% Latinos/as actually incarcerated	% "Whites" incarcerated*	
		Before removing Latinos/as (inflated)	After removing Latinos/as (actual)
Arizona	32.9	79.6	46.8
Colorado	27.7	71.0	45.0
Florida	8.6	42.5	36.0
Hawaii	4.8	20.8	18.1
New Jersey	17.7	25.8	17.7
New Mexico	56.3	83.0	28.9
New York	32.4	42.9	18.3
Rhode Island	15.0	64.0	51.9
Utah	19.4	86.3	68.2
Washington	14.1	71.0	58.5

Source: Holman (2001): Appendix 2.

*Note: Holman provides data on African Americans as well, but these data have not been included in this report because more than 95% of Latinos/as report their race as White.

Holman (2001) reports that, with more than 47,000 Latino/a prisoners counted as White in 1985, it appeared that there were 4% more White prisoners (52%) than non-White (48%). However, when Latinos/as were removed from the White category, non-White prisoners outnumbered White prisoners by 15%. Worse yet, between 1985 and 1997 the divide between the percent of the prison population that was White and non-White doubled to 30%.

Furthermore, in 1985, most states counted Latino/a prisoners with other races—that is, without separating ethnicity from race. Using this approach, Texas' White prisoners were reported to be 58.5% of the population when they actually were 38%. Similarly, California's White prisoners were reported to be 62% of all prisoners in 1985 when they actually were 36%. By 1997 these two states had changed the way they counted Hispanic/Latino/a prisoners by placing them in the "other" category for race. As a result, there is no discrepancy in reported and actual percentages of White prisoners in Texas and California in 1997, as Table 12 shows. In contrast, Colorado reported in 1997 that 71% of its prison population was White; by removing Latinos/as from the White category, the percentage of Colorado's prison population that is White fell to 45%.

Table 12
WHITE OVER-COUNT OF PRISONERS (1997)

	Percentage White prisoners reported	*Actual percentage White prisoners*	*Percentage White over-count*
Federal	58.0	31.3	26.7
Arizona	79.6	48.8	30.8
California	30.1	30.1	0.0
Colorado	71.0	45.0	26.0
Florida	42.5	36.0	6.5
Idaho	80.9	68.8	12.1
New Jersey	25.8	17.7	8.1
New Mexico	83.0	28.9	54.1
New York	42.9	18.3	24.6
Texas	27.6	27.6	0.0
Utah	86.2	68.2	18.0

Source: Holman, B. (2001). *Masking the divide: How officially reported prison statistics distort the racial and ethnic realities of prison growth.* Alexandria, VA: National Center on Institutions and Alternatives. Figure 4: Percent of prison population that is White, 1985 & 1997.

Implications of these findings

The 2000 Census included one question on race and another on ethnicity. Unlike previous Census results, therefore, the 2000 Census permits differentiation of any race from Hispanics.[7] However, federal, state and local juvenile justice and adult correctional authorities have not used categories for both race and ethnicity when describing youth in confinement (including prison). Thus, it is difficult to paint an accurate picture of the racial/ethnic breakdown of youth in the justice system. As a result, statistics for White –

[7] The Census uses the term *Hispanic* instead of *Latino/a.*

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and to a lesser degree Black – juveniles in the system are inflated, whereas statistics for Latino/a populations are too low.

While the Census Bureau approach represents a step in the right direction, even its approach of asking two questions (race and ethnicity) may not be optimal. An alternative approach would be to include the term *Latino* among the designations for race.

Potential strategies for addressing this problem

- Collect data in a way that permits analysis of the extent – and ultimately the causes – of over-representation and disparate treatment of Latino/a youth. Different approaches could achieve this goal:
  - ✓ One simple solution that easily could be made by state and federal governments would be to use a single "race/ethnicity" category, such as the category that appears on many government documents (e.g., federal loan applications). This category would include White, Black, Asian American, Native American, and Latino.
  - ✓ Alternatively, use the U.S. Bureau of the Census system of classifying persons by both race and ethnic origin.
  - ✓ Adopt the approach used by Latin American nations in which race is considered a secondary characteristic. Identify ethnicity prior to racial categorization.
- Develop a national protocol for documenting the categorization of individuals of Latino/a ethnicity who also have African or Native/Indigenous ancestry.
- Require counties and states to disaggregate Latino/a Blacks and African Americans as well as indigenous populations, just as Caucasians are divided into White and Hispanic White categories.

Finding 5
The system fails to provide adequate bilingual services to Latino/a youth

Why is it important to provide bilingual services?

As the Spanish-speaking population of the United States increases, the need for bilingual services also increases. For individuals who speak little or no English, legal procedures must be explained in Spanish and documents must be translated. Spanish-speaking parents are cut off from communicating with their children and with decision makers in the system if bilingual services are not provided.

Moreover, cases that involve medical or mental health emergencies require immediate communication with both youth and parents about what is happening. It is important to communicate with individuals in the language that has the least likelihood of misunderstanding during such emergencies.

Also, interpretation of the results of various types of assessments (e.g., risk, psychological, and educational) may be mistaken because those working in the system do not have the necessary language and/or cultural competency skills. Without bilingual services, it is difficult, if not impossible, to communicate with youth, their parents or guardians, and their families about treatment plans and counseling services. It is difficult

to imagine a youth corrections agency establishing a workable after-care plan for a youth with Spanish-speaking parents if staff are unable to communicate with those parents.

What proportion of incarcerated Latino/a youth would benefit from bilingual services?

The number of predominantly Spanish-speaking students in school provides a partial estimate of the bilingual services needed for incarcerated Latino/a youth. Consider, for example, information from Los Angeles County (California), which has the largest Latino/a population in the nation.

During the past 15 years, the percentage of all public school students in that county who have limited English proficiency has risen dramatically from 18% to more than 35%, with more than half the Latino/a students not being fluent in English (Hayes-Bautista & Nichols, 2000). Compounding the problem is the fact that only one Latino/a teacher is available for every 147 Latino/a students in Los Angeles County (Hayes-Bautista & Nichols, 2000).

In our survey of U.S. states, we asked respondents to indicate (1) the proportion of incarcerated youth who are limited in English proficiency (LEP), (2) how predominantly Spanish-speaking youth are recorded, and (3) treatment plans specific to Latino/a youth who are predominantly Spanish speaking. Table 13 summarizes states' responses to these inquiries.

Table 13
HOW STATES DOCUMENT THE NEED FOR AND PLAN TO IMPLEMENT BILINGUAL SERVICES

State	*Proportion of incarcerated Latino/a youth who have limited English proficiency (LEP)*	*How predominantly Spanish-speaking/LEP youth are documented*	*Treatment plans for predominantly Spanish-speaking youth*
Arizona	Data are not collected in a way to answer this question	In a home survey done by a parole officer	Same as all youth; deal with anger, educational needs, drug habits, and delinquency
California	Most youth have an average eighth grade reading level in English	LEP youth are identified through an assessment during intake at a California Youth Authority reception center	A language development plan is devised for all youth with deficient language skills
New Mexico	63%	In a juvenile probation or parole office, LEP is documented in progress/ assessment notes. In a juvenile correctional facility, LEP is noted in educational and psychological reports, progress notes, and client files.	Clients placed on probation have probation agreements and plans of care, but these are not guaranteed to be provided in Spanish. A translator will be provided. In correctional facilities, information is provided in both Spanish and English and counseling is provided by a Spanish-speaking

			person.
North Carolina	No idea how many youth are limited in English proficiency		
Ohio	Currently 2 youth	There is no special procedure	Provides manuals of the Spanish language, services of an interpreter, and help from other bilingual youth
Texas (Dallas County)	3%	County uses Texas education association guidelines	County uses Texas education association guidelines

How should translation/interpretation services be provided?

Executive Order 13166, signed by President Bill Clinton on August 11, 2000 (**http://www.usdoj.gov/crt/cor/Pubs/eolep.htm**) requires federal agencies to develop and implement a system by which persons with limited English proficiency (LEP) can meaningfully access services. The order requires agencies to ensure that stakeholders have an opportunity to provide input into the system. An agency receiving federal funds whose policies, practices or procedures exclude or limit the participation of any LEP person in a federally-assisted program on the basis of national origin may be engaged in discrimination in violation of Title VI of the Civil Rights Act of 1964. Under this order, agencies must provide that language assistance necessary to ensure access to the federal assistance programs.

An agency or organization may expose itself to liability under Title VI if it requires, suggests, or encourages an LEP person to use friends, minor children, or family members as interpreters. Use of such persons could result in a breach of confidentiality or reluctance on the part of individuals to reveal personal information critical to their situations. In addition, oftentimes family and friends are not competent to act as interpreters because they may be insufficiently proficient in both languages, unskilled in interpretation, and/or unfamiliar with specialized terminology. If, after informing an LEP person of the right to free interpreter services, the person declines such services and requests the use of a family member or friend, the agency may use the family member or friend, but only if the use of such a person would not compromise the effectiveness of services or violate the LEP person's confidentiality.

Alternatively, agencies -- including justice system personnel – may employ certified interpreters. However, certified interpreters are not available in all jurisdictions. At the federal level there are certification programs for Spanish, Haitian Creole, and Navajo. In the states, the situation varies widely. Some states (e.g., Washington, California, New Jersey) test interpreters of several languages; on the other hand, many states have no certification at all. The National Center for State Courts (http://www.ncsconline.org/) has organized a consortium of states that is sharing resources for establishing standards and testing. Approximately 25 states have joined the Consortium (National Association of Judiciary Interpreters and Translators [NAJIT], 2002). Although certification does not guarantee quality interpretation, generally it is a good sign if a translator has been accredited by the American Translators Association.

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Implications of these findings

Providing services and documents only in English compromises the constitutional right to due process of youth who are not predominantly English speaking and who have encounters with the justice system. Moreover, many youth who have learned English, only know English, or are bilingual themselves have parents who are monolingual Spanish speakers – so estimates of the number of youth with limited English proficiency represent only the "tip of the iceberg" of bilingual services required. Because it is critical to include parents as central and key players in service provision to youth, bilingual services should be provided to both youth and their parents/guardians so that they can access appropriate assistance in addressing the unique challenges they face because they are predominantly Spanish speaking.

Potential strategies for addressing this problem

- Ensure availability of bilingual services, including both interpretation and translation of materials – 24 hours per day, 7 days per week – to ensure that Latino/a youth are afforded due process under the law, to optimize the probability of helping Spanish-speaking youth and their families, and to facilitate the youths' rehabilitation.
- For states that have a commission for Spanish-speaking affairs, engage the commission to protect the rights of youth who are brought before the justice system by providing translation/interpretation assistance when needed. Also ensure that the commission works with the Department of Justice to translate all documents and to facilitate cultural-sensitivity programming for Latino/a populations in the state.
- Establish a program with Hispanic serving institutions (HSIs)[8] to increase the number of bilingual professionals in the juvenile justice system. Undertake similar efforts with non-HSIs.
- Employ bilingual staff in equal proportion to the percentage of youth in the system who are predominantly Spanish-speaking and whose parents are monolingual Spanish speakers.
- Permit youth freedom to communicate in the language of their choice.
- Provide written materials and verbal information in both English and Spanish. The written materials should be at the level of reading proficiency of the local Latino/a population. In addition, translation should not be literal, but rather culturally and linguistically appropriate. In order to achieve these ends, a professional translator/interpreter should be hired rather than using institutional staff who speak Spanish.

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[8] HSIs are non-profit, accredited colleges, universities or systems in which total Hispanic student enrollment constitutes a minimum of 25% of the total enrollment, including full-time and part-time students, whether at the undergraduate or graduate level or both. HSI Associates are non-profit, accredited colleges, universities or systems in which at least 1,000 Hispanic students are enrolled, or a minimum of 10% of the total enrollment is Hispanic, including full-time and part-time students, whether at the undergraduate or graduate level or both (see http://www.hacu.com/members/list/HIS.htm).

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Finding 6
The system fails to ensure cultural competency of staff working with Latino/a youth

Language is only one aspect of culture. Cultural differences between Latino/a youth and justice system personnel may foster misunderstandings that lead to inappropriate and harsher treatment. For example, looking down in the presence of an authority figure is an indication of embarrassment for misbehavior in Latino cultures, but judges may take it as a sign of disrespect and an indication of guilt. For Latino youth, "staring down" an authority figure is highly disrespectful. Thus, lack of cultural competence among key decision makers may increase the likelihood of punishment for Latino/a youth, as the case of "Luis" illustrates.

What signifies respect?

> *Luis, a 15-year-old Latino with no previous record, was arrested for possessing less than ½ ounce of marijuana.*
>
> *During Luis' disposition hearing, the judge ordered him and his caseworker into chambers. As the judge talked to Luis, he noticed that the youth was not looking directly at him. The judge ordered the youth to look at him, which Luis did. But, as time progressed, Luis looked down again. The loss of eye contact infuriated the judge, whose words and tone of voice became harsher. The caseworker attempted to explain that Luis' downcast eyes were a sign of respect in his culture—youth who are being reprimanded in Luis' culture bow their heads to show their embarrassment at their actions. He explained that "staring down" authority figures is considered to be highly disrespectful. The judge, however, took Luis' downcast eyes as an admission of guilt, and sentenced him to two years in a juvenile facility.*
>
> Source: Confidential.

Recent trends in Latino/a diversity

During the 1980s, a sudden growth in population size, fueled by immigration and rising fertility rates, resulted in much more diverse Latino/a populations in various parts of the country. As recently as 1970, Latinos/as in the U.S. primarily were second- and third-generation U.S.-born, English-speaking individuals of Mexican origin (Hayes-Bautista & Nichols, 2000), but the demographics are far different today.

Consider, for example, the changes in Los Angeles County, which has the largest proportion of Latinos/as in residence of any U.S. county and may serve as a harbinger of Latino/a trends likely to be encountered by other regions of the country in years to come. Latinos/as are the county's largest racial/ethnic group. In 2000, 45% of county residents were Latino/a (U.S. Bureau of Census, 2000); that proportion is expected to increase to 51% by 2010, and to 64% by 2040 (Hayes-Bautista & Nichols, 2000). Two reasons account for these likely trends: (1) high immigration of young adults and (2) a Latino/a birth rate which is more than double that of non-Latinos/as (Hayes-Bautista & Nichols, 2000).

The Latino/a communities of Los Angeles County also are becoming increasingly diverse. Whereas Mexicans constituted 95% of the Latino/a population in the county in 1980, today more intra-Latino/a variation exists. Individuals of Mexican origin still constitute 72% of the Latino/a population (U.S. Bureau of the Census, 2000), but

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individuals of Central or South American origin now comprise more than 20%, and individuals of other Hispanic origins account for approximately 5% of the Latino/a population in the county (Hayes-Bautista & Nichols, 2000).

Why is it important to consider specific Latino/a ethnicities?

Latinos/as typically are referred to as a single, homogeneous minority group. In reality, however, the category "Latino/a" is comprised of many diverse groups including Mexican, Guatemalan, Salvadoran, Cuban, Nicaraguan, Peruvian, Puerto Rican, Honduran, and Colombian (Hayes-Bautista & Nichols, 2000), each with its own ethnic identity and cultural traditions. While Latinos/as might share common language and cultural values, such as the importance of close family and extended family relationships, their histories and experiences in the U.S. are not identical. Differences among Latino/a subgroups might cover a wide range of variables, including—but not limited to—immigration status, fertility rates, family structure, socioeconomic status, and education (Perez-McCluskey, 2002). These factors may significantly impact Latinos/as' interactions with the justice system.

For example, Puerto Ricans are considered United States citizens regardless of whether they are born on the island of Puerto Rico or on the U.S. mainland. Puerto Ricans are not considered international migrants, as are those who emigrate from Mexico or other Latin American countries. As a result, Puerto Ricans do not experience the same challenges based on their citizenship status as do other Latino/a groups do (Obeler, 1995).

The educational attainment of Latino/a subgroups varies as well. For example, Mexican Americans are the least likely Latino/a group to report earning a high school diploma (del Pinal & Singer, 1997).

These facts point to the need to examine differences in Latino/a subgroups by country of origin. The uniqueness of each Latino/a group makes it difficult and even counterproductive to consider all Latinos/as as one identity.

States' reports of cultural competency concerns

All the states we surveyed noted challenges associated with language barriers and issues of cultural competency. Specific needs were listed in the following areas:

- Procurement of service providers who are both bilingual and culturally competent
- Ongoing inservice training of staff in cultural competency
- Translation of documents and forms into Spanish
- Providing services to families that are culturally appropriate
- Developing uniform codes across counties within the state

Implications of these findings

Good communication and cultural understanding are prerequisites to fair, efficient, effective interactions with the justice system – especially in the more treatment-oriented juvenile justice system. Predominantly Spanish-speaking individuals, particularly those who immigrated recently to the United States, often struggle to communicate with justice system personnel and to understand justice system procedures. Therefore, administrators must facilitate processes that encourage justice system personnel to acknowledge the

importance of good communication and cultural sensitivity and that improve the skills of those personnel, including appropriate interpretation services.

In addition, assessment tools (e.g., risk, psychological, and educational) must be race-neutral, culturally sensitive and appropriate to the individuals being assessed. Professionals also must be trained regarding the nuances of differences in immigrants who come with understandings and notions of justice systems and enforcement of laws from their home countries. They also must understand issues associated with acculturation and assimilation of Latinos/as.

Also, as Latino/a youth make up an increasing proportion of the nation's adolescent population, it becomes increasingly important to understand the interrelationships between acculturation and interactions with the justice system. Research findings on acculturation suggest several factors that might come into play when dealing with this specific population. Awareness of various risk and protective factors at the individual, family, and community levels can further our understanding of acculturation when Latinos/as come into contact with the juvenile justice system. For example, the use of Spanish language has been identified as a protective factor for drug use.

In addition, each Latino/a ethnic subgroup has its own unique history, culture, and experiences—factors that may significantly influence interaction with the justice system. For example, individuals from nations that have experienced recent histories of internal conflict (e.g., Guatemala, El Salvador, Colombia) may be particularly fearful of law enforcement professionals and may not view agents of the government as protectors of individual and civic rights. Individuals from nations where law enforcement professionals routinely extort monies rather than refer individuals to the judicial system may believe that bribes and other offers to law enforcement officers are acceptable options. Thus, law enforcement personnel in the United States need to be sensitized to the abusive law enforcement practices experienced by Latinos/as before coming to this country. On the other hand, when some Latinos/as arrive in the U.S., they believe they can trust law enforcement; negative experiences with racial profiling erode this trust. Thus, Latinos/as—particularly those who are recent immigrants to the U.S.—need to be educated about the proper role of U.S. law enforcement professionals.

Potential strategies for addressing this problem

- Disaggregate Latino/a populations to permit accurate ethnic identification and responsiveness to specific ethnic sensitivities.
- Clearly define decision rules related to "assignment" to Latino/a ethnicity, especially in cases in which ethnicity is secondary to race.
- Gather data on parental ethnicity and develop decision rules to assist in accurate assignment to Latino/a ethnic categories.
- Expand ethnic categories to include all Latin American nations.
- Develop a method for documenting the multi-ethnicities of Latino/a youth.
- Permit youth to self-identify the ethnic group with which they identify.
- Train law enforcement personnel in cultural sensitivity related to specific Latino/a ethnic subgroups.

- Ensure that law enforcement professionals throughout the country develop outreach programs to improve trust levels among Latino/a communities.
- Educate Latino/a immigrants regarding the proper role of law enforcement in the United States, as well as where and how to report abuses of that role.
- Engage National Association for Hispanic Education (NAHE) to develop a curriculum to help law enforcement professionals to understand the interethnic issues and differences across and within Latino/a ethnicities.
- Engage the National Center for Latino Leadership (NCLL) to develop a community leadership and education program to help parents and youth understand the U.S. juvenile justice system and facilitate Latino/a leadership in dealing with issues related to community policing.
- Adopt standards and policies that meet the cultural and linguistic needs of U.S. Latino/a populations, such as those adopted by the National Alliance for Hispanic Health (www.hispanichealth.org) and other health care communities.
- Establish a program with Hispanic serving institutions (HSIs) to increase the cultural competency of professionals in the juvenile justice system. Undertake similar efforts with non-HSIs.
- Collaborate with the National Association of Hispanic Education (NAHE) to ensure that non-HSIs also can meet the educational needs of Latino/a students who want to have a professional career in the juvenile justice system.
- Collaborate with the Hispanic Bar Association and MALDEF to establish an on-going in-service training program for juvenile court system professionals.
- Engage the National Association of Hispanic Social Workers to ensure that the needs of families with youth involved in the system are being met.
- In collaboration with NAHE and the National Community for Latino/a Leadership, Inc. (NCLL), develop a national model for training in Latino/a cultural competence.[9] The model should include components specific to particular Latino/a ethnic subgroups (e.g., Puerto Rican, Mexican, etc.). Disseminate the model in all 50 states and the District of Columbia. Ensure that the model disseminated in a particular state is consistent with the Latino/a composition of the state and of the juvenile justice system in that state.

Finding 7
Consideration of the immigration status of Latino/a youth sometimes results in deportation of youth and permanent separation from families

Life in INS detention

[9] Cultural competence is the ability of individuals and systems to respond respectfully and effectively to people of all cultures, classes, races, ethnic backrounds, sexual orientations, and faiths or religions in a manner that recognizes, affirms, and values the worth of individuals, families, tribes, and communities, and protects and preserves the dignity of each (Child Welfare League of America, 2002). Available at http://www.cwla.org/programs/culturalcompetence/

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> *The U.S. government locked 16-year-old Alfredo Lopez Sanchez, a Mayan boy from Guatamala, alone in a hotel room for five weeks with nothing to read, no one to talk to, and no change of clothes while the INS worked to deport him. He washed his underwear in the sink with hand soap each night. "Each day the maid comes in and changes the sheets. The bed gets clean clothes, but I don't," Alfredo told his lawyer.*
>
> *Alfredo has been held by the INS in at least four locations, including a Florida county jail, a juvenile detention center in Pennsylvania, and the hotel room. Alfredo never has been charged with any crime, but he has been held in jails and shackled and handcuffed to chains around his waist, because he has been labeled a "threat risk." Although he suffers from post-traumatic stress disorder, he has been moved eight times without prior notification of his lawyer (including being flown between Miami and Pennsylvania five times). Alfredo said that he ran away from home after seeing his alcoholic father beat his mother so badly that she fell on top of her youngest baby, who died. Alfredo then left home and hitchhiked and walked to the U.S.*
>
> *Alfredo speaks a rare dialect called Southern Low Mam; he understands little Spanish and almost no English. A woman who speaks his language is ready to offer him a home in Miami, as are two other families, but the INS refuses to release him, saying he is a flight risk. A U.S. District Court Judge in Miami disagreed with the INS determination, but noted that the court cannot "dictate to the INS where to place a juvenile alien." Alfredo was dragged out of court in shackles, weeping. He was transferred to Berks County Youth Center in Leesport, Pennsylvania—1,200 miles from his lawyer (who was informed after the fact) and from the only interpreter currently available for his language in the U.S.*
>
> Source: Elsner (2002).

States' reports of interaction with INS

States in our survey provided very little information about their interactions with the Immigration and Naturalization Service (INS). Some states indicated that they contact INS "whenever an immigration issue is involved," but reports from different representatives even within the same state sometimes conflicted.

One representative from California reported, for example, that the INS is notified of the incarceration of any youth whose immigration status may lead the agency to place a hold on the youth's release. On the other hand, another respondent reported that California does not notify the INS about youth, noting that San Francisco and other jurisdictions have sanctuary laws that prohibit any government agency or entity from reporting immigrants to the INS.

Consequences for immigrant youth

The detention of Latino/a youth is not limited to the juvenile justice and adult criminal justice systems. The Immigration and Naturalization Service (INS) detains nearly 5,000 immigrant youth at more than 90 facilities across the country (INS Office of Public Affairs, 2000). The vast majority of the children detained are Latino/a (INS Office of Public Affairs, 2000). In most instances, they have not been charged with any crime, so their only violation of the law is being present in the United States without legal

documentation. Nevertheless, many of these youth are detained for months, and sometimes years, in secure juvenile detention centers and, in some cases, in adult prisons contracted by the INS. Another approximately 9,000 immigrant youth, a majority of whom are Mexican, are detained at the U.S.-Mexico border annually; most of them are deported within 72 hours (U.S. Office of the Inspector General, 2001).

None of the youth taken into custody of the INS receive the celebrity attention afforded Elián González. Instead, they are often denied a hearing, access to legal representation, and contact with relatives. They are provided with little information about their legal rights and about whether, or when, they will be deported. They regularly are handcuffed during transport, strip searched, and subjected to other degrading treatment. In addition, immigrant youth regularly are held in detention facilities with few (or no) bilingual staff, non cultural competency plan and substandard education services, if any (Human Rights Watch 1997, 1998). In addition, they may be commingled with delinquent youth, even if they themselves have not been charged with a crime (Coalition for Juvenile Justice [CJJ], 2001).

The conditions under which immigrant youth in the U.S. are detained by the INS have been denounced by Human Rights Watch (1997, 1998) and other international child advocates as violations of U.S. and international law (see, e.g., *Report on Unaccompanied Minors*, Secretariat of the Inter-Governmental Consultation on Asylum, Refugee and Migration Policies in Europe, North America, and Australia, 1997).

Some immigrant youth become separated from their parents and families during their journey to the United States and arrive in this country completely unaccompanied. Others are apprehended with their families, but are purposefully transferred by the INS to detention facilities located in different states than those where their parents are detained (Nugent & Schulman, 2001). Many youth are held in detention even when adult family members are available to take custody of them while their immigration case is pending (U.S. Office of the Inspector General, 2001). In some cases, parents of immigrant children apprehended by the INS are afraid to come forward to take custody for fear that they themselves will be deported—a fear that has been borne out in some instances (Pritchard & Schulman, 2001).

The majority of immigrant youth who are detained never obtain access to a lawyer. Immigrant youth have no right to government-appointed counsel or guardians ad litem. They are nonetheless held to the same standard of proof as adults in their immigration "removal" (deportation) proceedings. Children as young as 6 years old have had no representation in immigration court (Driscoll, 2001). Further, the U.S. government makes little or no effort to reunite children with family members when they are deported. In fact, some children from Central and South American countries simply have been dropped off at the U.S.-Mexico border (Human Rights Watch, 1998).

For years, advocates and attorneys have argued that the detention of immigrant children in secure detention facilities violates a 1996 class action lawsuit settlement which mandates that the INS place each youth in the least restrictive setting possible, such as a child shelter or foster care, while the youth's immigration case is pending (*Flores v. Reno, 75 Interpreter Releases* i1020, July 28, 1998). Nevertheless, one-third of the immigrant youth apprehended in 1999 were locked away in adult jails and juvenile detention centers (CJJ, 2001). The INS defends its practices, in part, by citing a shortage of non-secure facilities for children. However, the INS has failed to comply with the settlement agreement provision requiring it to expand the current number of non-secure detention placements. Further, it has admitted on a separate occasion that it actually has enough shelter beds to accommodate its average daily population of immigrant children (Marcucci, 2001).

The centers that detain Latino/a youth make a profit by doing so. The INS contracts with detention facilities to hold immigrant youth, paying a higher rate than the facility would make by detaining non-immigrant youth. Detention facilities therefore have an added financial incentive to detain immigrants (Welch, 2000). The INS currently budgets $1 billion annually for the detention and deportation of immigrants, the fastest growing segment of the U.S. incarcerated population (Detention Watch Network News, Spring 2001).

The immigration status of Latino/a youth who are in the juvenile justice system or transferred to the adult system does not become an issue for many youth. Police officers, probation departments, detention center officials and other employees of the system have no legal obligation to report youth to the INS. However, in some jurisdictions, justice system officials who suspect that certain youth are not U.S. citizens have taken it upon themselves to notify the INS of the youth. In such situations, Latino/a youth who have already completed serving time are transferred to INS detention, where they oftentimes sit for months in secure facilities and eventually are deported (Human Rights Watch, 1997, 1998). Some jurisdictions, such as parts of California and Oregon, have enacted sanctuary laws to prohibit cooperation between local and state government agencies, including law enforcement and the INS. (See Appendix H for an example of a "non-cooperation" agreement.)

At the time of initial contact with law enforcement, Latino/a immigrant youth may be subject to the same aggressive policing practices, racial profiling, assumptions about gang affiliation, and other disparate treatments to which their Latino/a citizen counterparts are subject. The racial and ethnic disparities in the rate of transfer of Latino/a youth to adult court have a particularly severe impact on noncitizen youth because an expanded number of adult convictions have deportation consequences. On the other hand, youth who are able to stay in juvenile court cannot be deported on the basis of a juvenile disposition.

Many immigrant youth have lived in the United States virtually their entire lives and no longer have ties to their country of birth. Some are detained many years after having entered the U.S. and no longer speak Spanish. Some youth are the young parents of children born as U.S. citizens. Nevertheless, Latino/a youth who are not citizens of this country may suffer not only prolonged periods of secure detention and discrimination but also permanent separation from their families. If they are deported to their country of birth, many also face poverty, homelessness, further psychological trauma, political persecution and other significant hardships.

Implications of these findings

Annually, the INS detains approximately 5,000 youth in its facilities and another 9,000 at the border. This means that of the approximately 100,000 youth in detention in the United States at any given time, approximately 1 in 10 are under the control of the INS. However, no uniform system exists to ensure that immigration status does not prejudice youth in the justice system.

In addition, no uniform system exists to ensure that policymakers, legislators, agency administrators, or other justice system decision makers consider INS data. It is unclear whether juveniles who have been reported to the INS are included in justice system databases. Therefore, it is impossible to paint an accurate picture of the relationship between immigration status and justice system interaction. Thus, for purposes of juvenile

detention statistics, it may be advisable to develop a standardized form of documentation of Latino/a youth in INS detention.

Potential strategies for addressing this problem

- Develop guidelines that prohibit probation departments, prosecutors and juvenile court judges from inappropriately taking immigration status into account in decisions about detention, transfer to adult court, and disposition. Decisions regarding immigrant youth should be based on the same criteria as decisions regarding other youth in the system.
- Develop guidelines that prohibit probation departments and juvenile detention centers from placing "informal holds" on youth and detaining youth for the purpose of notifying the INS.
- Work with juvenile justice system personnel to ensure that young Latino/a immigrants in the custody of the INS are not needlessly locked away in juvenile detention facilities. When temporary confinement is necessary, ensure that these youth are processed and released to their families or to community programs as quickly as possible.
- Develop guidelines that prohibit probation departments, prosecutors and juvenile court judges from recommending deportation of youth.
- Encourage the development and implementation of uniform "non-cooperation agreements" between the INS and juvenile/adult justice agencies.
- Require INS to separate youth from adult inmates in all facilities, as is required in the juvenile justice system under the federal Juvenile Justice and Delinquency Prevention Act.
- Recruit, hire, and train more U.S. attorneys, public defenders, and advocates who are Latino/a, or who speak Spanish and are culturally competent, to direct and conduct services and initiatives targeted at strengthening Latino/a youth and families.
- Encourage more monitoring and oversight of INS practices by human rights organizations and governmental agencies.

Finding 8
Anti-gang laws result in unfair consequences for Latino/a youth

Consequences of using risk assessment instruments

Probation departments use risk assessment instruments to determine which youth to detain after they are arrested. While the detention decision is intended to be based on objective criteria of whether a youth presents a threat to public safety or is a flight risk, this decision actually often is a point of subjective, racially-biased decision making.

Due to a number of factors, risk assessment instruments in many jurisdictions are highly biased racially and ethnically. First, youth are penalized for actual or suspected gang involvement, regardless of evidence to support the actual charge alleged. Gang involvement by itself often is worth a large number of "points" on the risk assessment scale. In addition, gang affiliation often is presumed for Latino/a boys. Also, points for

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gang affiliation may be added even when the offense committed by the youth was not gang-related. Second, youth may be detained automatically when their parents either cannot be reached or cannot retrieve their children from the probation department. In some cases, parents cannot be "reached" because language barriers obstruct communication. In other cases, parents may not retrieve their children because the parents are undocumented and fear possible deportation for doing so. Third, probation officials often have the power to "override" what may be an objective risk assessment instrument. This decision to override can be motivated by racial bias.

Consequences of gang identification

When a youth is labeled a "gang member"

The Consequences of Presumed Gang Affiliation

> *Antonio, now age 28, was imprisoned at age 17 for participating in a barroom brawl that involved weapons. In prison, staff labeled Antonio a "gang member" based on his Latino ethnicity and his multiple tattoos. Although Antonio had associated with gang members, he never had been a gang member himself. For Antonio to be eligible for parole, prison officials required that he have no contact with gang members. Ironically, prison officials themselves continually placed Antonio with gang members who repeatedly threatened him, including one who stabbed him.*
>
> *Shortly before coming up for parole, Antonio received a letter from a cousin lamenting the fact that the cousin had not followed Antonio's advice to stay away from gang members. Because of this letter, prison officials labeled Antonio with "Security Threat Group" (STG) status and denied him parole—despite the fact that his cousin later was exonerated of the gang charges. After he was denied parole a second time, out of anger and frustration Antonio threw a chair. He was charged with assault and battery and intent to riot, and is facing 5 to 10 years for the new charges.*
>
> Sources: Confidential.

Anti-gang laws, such as California's recent ballot initiative, Proposition 21, have converted a broad range of youth offenses, including misdemeanors, into adult felonies (See e.g., *Robert L. v. Orange County Superior Court*, 2001). These highly punitive laws have had a disproportionate impact on youth of color who are most often identified as "gang-affiliated" by law enforcement and other justice system players (Office of Juvenile Justice and Delinquency Prevention, 2000, Table 19). In practice, anti-gang laws have caused significant numbers of Latino/a youth across the country — only some of whom are actually members of gangs — to receive harsh treatment by police, detention facilities staff, prosecutors and the courts.

Being labeled a "gang member" can have adverse consequences for youth at all the key decision-making points in the justice system. First, stereotypes about which youth are associated with gangs can impact police decisions about who to stop and who to arrest. Alleged gang affiliation can also be the determinant factor in whether a youth is held in secure detention after arrest. Police and probation departments in some jurisdictions assign a significant number of "negative points" for alleged gang involvement during the "risk assessment" component of detention decisions (Cox 2000). For many Latino/a youth, this practice incorrectly presumes the youth are "dangerous" and "guilty" before they are adjudicated.

Gang affiliation is also a basis for transferring a youth to an adult court in some jurisdictions. Under California's Proposition 21, by merely alleging that an offense is "gang-related," prosecutors may have the power to file charges against a youth as young as 14 years old directly in adult court, without the generally required "fitness" hearing before a judge (Cal.Pen.Code § 186.22(b); Cal.Welf.&Inst.Code § 707(d)(2)). "Gang-related" offenses are defined as those "committed for the benefit of, at the direction of, or

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in association with any criminal street gang with the specific intent to promote, further, or assist in any criminal conduct by gang members" (Cal.Pen.Code § 186.22(b); Cal.Welf.&Inst.Code § 707(d)(2)). Allegations of gang involvement also can be extremely prejudicial to the outcome of the youth's case, sometimes serving to validate a judge's decision to deny bond, to discount the youth's testimony, or to impose harsh sentencing (Burrell, 1990). Moreover, even allegations that a youth is a "gang member"—which may ultimately be unsubstantiated—may nevertheless instill fear in some jurors and thereby impact the verdict.

Disturbingly, the terms *gang* and *gang affiliation* are defined differently and quite broadly in many jurisdictions. In some states, the sole testimony of a police officer categorized as a "gang expert" by the police department is enough to establish a youth's "gang association" at trial (See e.g., *People v. Olguin*, 1994). Anti-gang laws have legalized the practice of "gang profiling," which allows police to stop, question and in some jurisdictions use extremely aggressive tactics, such as involving SWAT teams, against any youth who fits a description of a "gang member" (Chemerinsky, 2001). Latino/a and other youth of color who merely have a tattoo, wear hip-hop clothing or live in low-income, high crime neighborhoods are sometimes presumed to be "gang affiliated" by police and therefore are oftentimes stopped, questioned and physically threatened or assaulted. These policies are often justified under the auspices of the so-called "war on drugs," of which the "war on gangs" is a part (Beres & Griffith, 2001).

The use of "gang databases" has become more widespread over the last decade. They are currently used in Michigan, Ohio, Minnesota, Texas and California, among other states. Such databases are comprised of names of "suspected gang members," "gang associates," and individuals convicted of "gang-related" crimes and also include personal information and photographs entered by police (O'Connor, 2000). The criteria for being placed on these lists often are vague, including such things as "hangs around with gang members" and "is called a gang member by an untested informant with corroboration" (O'Connor, 2000). These lists are off limits to the public in many jurisdictions and there is no judicial review of the decision to place a youth in the database; thus gang databases often include many youth who have left gangs or who were never actually gang members (Beres & Griffith, 2001). In addition, in some jurisdictions there are no means available for youth to have themselves removed from the gang database.

Anti-gang laws also come in the form of "gang enhancements," which significantly increase the penalties imposed for an offense if it was "gang-related" under the definition provided above. Although many gang-related offenses are serious offenses, gang enhancement laws sometimes impose sentences which far exceed what the criminal law would have imposed for the same offense had it not been gang-related. For example, in California, youth can face a life sentence in adult prison for a residential robbery if it is deemed to have been "gang-related." (Cal.Pen.Code § 186.22(b)). Presumptions about gang affiliation also have severe consequences under the state's "three-strikes" law intended for adults. Proposition 21 made any felony committed "on behalf of a gang" a strike. It also created new "juvenile strikes," or juvenile offenses that count as adult strikes, which can lead to 25-year to life sentences for some youth. These new "juvenile strikes" include offenses such as unarmed robbery (Cal.Welf.&Inst.Code § 707(b)(3), (25)). Youth labeled with "gang affiliation" may also get more severe treatment in terms of the actual time they are required to serve in prison. Proposition 21, for example, enacted a new category of "violent felonies" which require that youth who receive prison terms serve 85%, rather than the previously standard 50%, of their sentences. This category of offenses includes some gang-related offenses (Cal.Pen.Code § 186.22(b)).

Police work targeting predominantly Latinos/as and Latino/a "suspected gang members" in Los Angeles was the focus of the city's largest police scandal in history. The Rampart CRASH ("Community Response to Street Hoodlums") police unit framed thousands of innocent people by planting evidence on them, committed perjury in court to gain convictions, and physically brutalized innocent youth and adults (*see* Booth, 2000; Glover & Lait, 2002). The officers also illegally colluded with the INS to deport young Latinos/as. The Los Angeles Public Defender continues to review over 30,000 convictions to identify other young people Rampart police may have framed.

Consequences of prosecution as an adult and confinement in adult prison

The juvenile justice and adult criminal justice systems differ in a number of ways (see Appendix I). The differences between juvenile court and adult criminal court are probably most important in the sanctions available to courts after adjudication or conviction. Sentencing options in adult criminal court are usually very limited, often confined to probation, fine, or incarceration. Dispositions in juvenile court may cover a range of options of varying degrees of restrictiveness, including probation, day treatment programs, specialized group homes, community-based residential programs, wilderness programs, and commitment to state institutions. For youth charged in adult criminal court, some states permit "blended sentencing," which combines juvenile court dispositions and adult criminal court sanctions. In other cases, juveniles waived to adult court are treated more harshly than their crimes warrant, as the case of "Alicia" illustrates.

The story of "Alicia"

Alicia, age 17, had just graduated from high school and was working two jobs in preparation for her first year of college. She had been a model high school student, with no contacts with the juvenile or criminal justice system or with the police.

One evening, three neighborhood friends asked Alicia to give them a ride. Unbeknownst to her, the three friends were embarking on a marijuana sale and carried handguns to rob the buyers. The buyers, also armed, had their own plan to rob the dealers. Alicia knew none of this. After dropping her friends off, she heard gunshots. When her friends returned to the car, they forced her to drive off.

Alicia's friends had shot and killed the buyers. During the police investigation, one of her friends cut a deal with the prosecuting attorney, "giving up" Alicia. The prosecutor charged Alicia with aiding and abetting the crime that resulted in murder, and he charged her in adult criminal court. The jury convicted Alicia of second-degree murder: she was sentenced to 25-50 years in prison. The "friend" who gave her up received a lesser sentence. Later, he recanted his testimony about Alicia's prior knowledge of the planned robbery. Still, Alicia remains in prison.

Source: Confidential. Names and identifying information have been changed to protect confidentiality.

Gang enhancement statutes and other aspects of the system that treat Latino/a youth more harshly are especially important because those youth are housed in jails and prisons where they face particular dangers (see, e.g., the case of *Antonio*, described on page 63). Compared to youth in juvenile facilities, youth in adult facilities are:

- 8 times as likely to commit suicide (Flaherty, 1980)
- 5 times as likely to be sexually assaulted
- 2 times as likely to be assaulted by staff
- 50% more likely to be attacked with a weapon (Forst, Fagan, & Vivona, 1989).

Moreover, recidivism is *higher* for youth who have been transferred to adult criminal court compared to youth with similar characteristics and offense records who stay in the juvenile court (Bishop, Frazier, Lanza-Kaduce, & Winner, 1996). This finding holds true whether recidivism is examined in terms of rates of reoffending, seriousness of reoffending, or time to failure: Youth charged in adult court are significantly more likely to reoffend, more likely to commit violent crimes when they do reoffend, and to reoffend sooner than similar youth who go through the juvenile justice system (Bishop et al., 1996).

Implications of these findings

When procedures routinely employed by justice system personnel systematically and unfairly disadvantage Latino/a youth, justice cannot be served. The system must eliminate procedures that racially or ethnically profile youth, including risk assessments and other procedures that presume gang involvement for Latino/a youth. In addition, the system must institute and monitor procedures to ensure that Latino/a youth are not disproportionately waived to adult court.

Potential strategies for addressing this problem

- Advocate for reforms to prevent racial bias, racial profiling and "gang-profiling" by all justice system and law enforcement personnel.
- Regulate or amend provisions giving prosecutors "direct file" authority to prosecute youth in adult criminal court and require that waiver decisions be individualized and made by judges.
- Train detention staff to administer a valid, racially and ethnically unbiased risk and needs assessment designed to determine whether each youth should be released. Present the results of this assessment to the court at the initial detention hearing.
- Amend or repeal laws that may disproportionately impact Latino/a youth – such as laws providing long mandatory sentences for alleged gang involvement, drug laws with mandatory minimum sentences, and "three-strikes" laws.
- Identify whether there are gang injunction zones in your city and what the policies are concerning gangs in your state.
- Demand that constitutional due process apply to all youth, regardless of gang affiliation.
- Advocate for the elimination of gang databases.
- Advocate for the elimination of "gang-injunction zones."
- Advocate for the allocation of significantly increased funding for decaying schools in inner cities, after-school youth programs and jobs to create more options for youth in their communities.

7. Promising Approaches

The Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI) recommends 10 strategies to counteract the specific problem of disproportionate minority confinement (DMC), including confinement of Latinos/as:

1. Formulate a vision and related policy goals for reducing DMC.
2. Create structures (e.g. task forces) charged with sustaining a focus on DMC.
3. Collect data and conduct research to document where disparities occur.
4. Build coalitions and alliances with communities and people of color.
5. Diversify the composition of the system's work force.
6. Diversify the service delivery system by contracting with organizations located in communities of color and managed by people of color.
7. Provide cultural and racial sensitivity training for staff at all levels of every agency of the system.
8. Minimize opportunities for discriminatory decisions by creating objective instruments and guidelines free of racial bias.
9. Improve defense representation to increase advocacy for youth of color.
10. Change the policies and practices of other systems (e.g. mental health, child welfare) to prevent "dumping" into secure detention youth who would be better served by those systems (Schiraldi & Ziedenberg, 2002).

Counties that have adopted these types of strategies have made progress toward the goal of eliminating disproportionate representation and disparate treatment of youth of color.

Santa Cruz County, California

> *When we looked for clients who experienced barriers to service or lack of access, we found them. When we looked for points of subjective rather than objective decision making, we found them. When we looked for examples of cultural insensitivity, we found them. When we looked for unnecessary delays, which contributed to longer lengths of stay in detention, we found them.*
>
> *The examination has now become an on-going effort directed towards continuous improvement, rather than a defense of the status quo. While it remains true that there are societal issues which make minority youth vulnerable to the risk factors for delinquency, our work has taught us (and research supports this) that individual justice agencies can exacerbate the disparity at each decision point. A close examination of the data and practices at each decision point can create a positive effect.*
>
> Judith A. Cox
> Assistant Chief Probation Officer
> Santa Cruz County Probation
> September 2000

Santa Cruz County is a mid-sized county in California with Latinos/as comprising 35.2% of youth ages 10-17 (Judith A. Cox, e-mail communication, January 31, 2002). In 1998, prior to the county's aggressive plan to combat disproportionate minority confinement, Latino/a youth represented nearly 64% of the youth detained in the county's secure juvenile detention facility. In 1999 that percentage dropped to 53%, to 50% in 2000, and to 49.7% in 2001 (Cox, 2000; Judith A. Cox, e-mail communication, January 31, 2002).

Expressing Santa Cruz County's results in terms of OJJDP's index of disproportionate confinement, it is clear that the results of the work in Santa Cruz have been impressive. Prior to its campaign to reduce disproportionate minority confinement, the Santa Cruz index value for Latino/a youth in detention was 1.9 (similar to the national figures on DMC). Today the index has fallen to 1.4.

What lessons can be learned from Santa Cruz County?

Santa Cruz County's success resulted from implementation of a comprehensive set of strategies.

1. Embrace the reduction of DMC as a key organizational objective.

The agency administrator must play a significant leadership role in the development and direction of this effort. The administrator must ensure that departmental resources, personnel practices (recruitment, hiring and training), outcome indicators, and service and program strategies all support this effort. The administrator also must develop a cultural competency plan and appoint a cultural competency coordinator.

2. Create a map of key decision points affecting decisions to arrest, book, detain, release and place juveniles.

Determine whether data are available, by ethnicity, for each decision point. If data by ethnicity are not available, create a data development agenda. Keep a trend line for each decision point. Review the trend line regularly to mark progress and to identify problem areas.

3. Develop and monitor objective criteria for the decisions made at each point.

Develop a quantifiable set of risk factors free of criteria that may create racial bias. Include all stakeholders in the development of the objective criteria. Base the assignment to intensive supervision caseloads and removal from these caseloads on clearly stated risk-based criteria.

4. Ensure that staff persons in key positions are culturally competent and bilingual.

Establish guidelines that ensure that staff persons have the skills and abilities to provide services to a diverse client population. Provide ongoing training in cultural sensitivity, cultural competence, the dynamics of disproportionate representation of Latino/a youth, and the disparate treatment of Latino/a youth in the system.

5. **Eliminate barriers to family involvement.**

   Conduct surveys of youth involved in the system and their families to determine what barriers to service and family involvement exist. Encourage family conferencing and parental involvement at all levels.

6. **Create two or three tiers of community-based alternatives to detention that involve community-based organizations and parents.**

   Agree on a continuum of court-approved administrative sanctions that could be imposed prior to arrest for probation violations to prevent unnecessary detention. Establish desired outcomes for these alternatives. Include crisis response plans, strength-based work, and wrap around services. Provide more than one level of supervision for youth. Track outcomes by ethnicity.

7. **Develop a full continuum of treatment, supervision and placement options.**

   Carefully define and develop a local continuum of culturally sensitive services. Ensure that youth of color have equal access to these services at each level. Calculate data on length of stay by ethnicity and adjust programs to reduce disparities.

In addition, Santa Cruz County's success is attributable to the fact that local Latino community members were actively involved in holding the county accountable for making policy changes to decrease Latino/a youth confinement. Community representatives sat on advisory panels and held town hall meetings to discuss issues.

Multnomah County, Oregon

In the years prior to the detention reform initiative, Latino/a youth in Multnomah County (Portland, OR) were over-represented and disparately treated in the justice system. In addition, too many youth were sent to detention. The county's detention reform plan produced significant improvements in the system. For example:

- *In 1994, Latinos/as comprised 6% of the youth population and African-Americans represented 10% of the youth population in Multnomah County. However, both groups were twice as likely as White youth to be detained by the Department of Community Justice; overall, youth of color were 31% more likely to be detained than Whites. By 2000, after Multnomah County worked with the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI) to reduce disproportionate minority confinement, both youth of color and White youth were detained at identical rates (22%) (Justice Policy Institute, 2001).*
- *In 1994, there was an average daily population of 60 preajudicatory youth in the Donald E. Long Home (Multnomah's secure detention facility). By 2000, that number (including youth who had to be held due to mandatory incarceration laws) had fallen to 33 (Schiraldi & Ziedenberg, 2002).*

- *As the use of detention became more equitable, the county also reduced the number of youth entering detention each year, at the same time that juvenile crime rates declined.*

A 1993 analysis of Oregon's data revealed that detention processing and police referrals had been major factors contributing to overrepresentation in Multnomah County (Heuser, 1993). The county therefore instituted a variety of strategies designed to reduce the number of youth of color in the system and their disparate treatment—strategies that clearly were successful.

What lessons can be learned from Multnomah County?

The Juvenile Detention Alternatives Initiative recommends four core components designed to help communities make their juvenile justice systems more efficient and effective and detain fewer youth:

1. Use objective screening instruments to determine which youth are detained
2. Enhance current alternatives-to-detention programs and/or create new ones
3. Expedite case processing to reduce lengths of stay
4. Create new policies and practices for probation violations, warrants and "awaiting placement" cases (Schiraldi & Ziedenberg, 2002).

In order to accomplish these goals, Multnomah County set up a Disproportionate Minority Confinement Committee, whose objectives were to make fair and equitable decisions about detention and to ensure that system resources were culturally relevant, accessible, and appropriately used for all racial and ethnic communities. Multnomah JDAI then established a series of detention alternatives, including:

- Shelter care
- Foster homes
- Home detention
- A day reporting center

Multnomah County also developed a risk assessment instrument, which it used to guide its admissions decisions. The county stopped relying on criteria such as "good family structure" and "gang affiliation," which may be biased against youth of color, and expanded the "school attendance" factor to include "productive activity."

In addition to these actions, Multnomah County worked with its staff to ensure more equitable processing of youth of color. The probation department diversified its staff so that the staff reflected the demographic diversity of the county. The department also hired 4 half-time trial assistants to help attorneys improve pretrial placement planning for youth. The county then trained community police officers in the goals of JDAI, which resulted in diverting many youth from referral to the juvenile justice system. Finally, the Department of Community Justice declined to renew its contract with INS in 2001, which resulted in a 31% decline in the proportion of Latino/a youth in pretrial detention (Schiraldi and Ziedenberg, 2002).

In summary, the county's successful strategic plan included the following components:

- Provide racial and cultural sensitivity training for staff,

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- Collect and maintain data on the detention system, over-representation, and disparate treatment.
- Reduce the time youth have to wait to have their cases processed,
- Develop and use more accurate and objective risk assessment instruments,
- Hire a more diverse workforce, and
- Develop alternatives to detention programs in communities of color.

8. Recommendations for Action

This section provides suggestions for action strategies that may be employed by various stakeholder groups: Latino communities, youth, and parents; law enforcement; justice system; advocates; policy makers; and researchers. Generally, we have not repeated strategies across groups, although we recognize that some strategies could be implemented by more than one group simultaneously. Also, we recognize that individuals cross categories; those who "wear many hats" may implement strategies from a variety of perspectives.

First and foremost, we recommend that all groups address the issue of racism in the justice system. Specifically, we recommend that groups (1) determine the magnitude of the problem of over-representation and racial/ethnic disparities in the justice system, (2) embrace the reduction of disproportionate representation of Latino/a youth in the system as a key community objective, and (3) implement strategies and accountability systems that eliminate disparate treatment of Latino/a youth in the justice system.

What can Latino communities do?

- Get organized at the local level. Youth, parents, and other concerned community members who come together to educate and organize themselves can more effectively pressure the justice system to be accountable to Latino communities for the way the system treats its youth. Include representatives of various community groups, including faith-based organizations and youth who have experience with the justice system. Involve the growing, youth-led grassroots movement to stop the incarceration of youth of color across the country.
- Call for a real voice for youth in the area of policy development and implementation. Use the United Nations Convention of the Rights of the Child as a basis for including youth as active participants in the systems and decision processes that affect them.
- Host community meetings that present facts regarding the problem of disproportionate representation and disparate treatment of Latino/a youth in the vicinity and accounts of the experiences of Latino/a youth in the system. Help those who attend the meetings to develop action plans to address the problem and then to implement those plans.
- Pursue collective understanding of the terms *Latino* and *Hispanic*. Suggest how definitions should be applied when data are collected.
- Call for local and state government representatives to develop and use databases that include information on both race and ethnicity. Encourage community members to participate in research, increasing the likelihood that the data collected will be representative.
- Call for the expansion and increased funding of community programs that provide alternatives to detention, alternatives that provide sufficient, high quality, culturally competent in-home and community-based services for at-risk youth and for youth offenders, both pre- and post-disposition. Require that service delivery systems are held accountable for results through the use of performance-based outcomes.
- Encourage community members to become educated on how the criminal and juvenile justice systems work and on techniques that serve to reduce youth crime. Such methods

could include advocating for reductions in the number of school expulsions and suspensions and calling for creation and funding of more high quality after-school programs in the community.

- Work closely with schools to implement prevention programs, including structured out-of-school activities for youth both after school hours and during the summer.
- Encourage community members to serve as cultural competence trainers, interpreters, and bilingual staff members in juvenile justice and law enforcement. Require that juvenile justice and law enforcement systems be held accountable for providing appropriate training and bilingual interpretation services.
- Encourage culturally competent, bilingual attorneys to provide *pro bono* counsel to Latino/a youth and their families.
- Create a hotline for Latino/a youth and their families that provides information and referral services on juvenile justice issues in both Spanish and English.
- Form Latino advisory groups to guide policy making and implementation in the law enforcement and justice systems. Call for Latinos/as to be appointed to state advisory groups on juvenile justice in numbers reflective of the proportion of Latinos/as in the state. Ensure that Latino/a youth who have experience in the justice system are included in these advisory groups.
- Call for the implementation of non-cooperation agreements between the justice system and the Immigration and Naturalization Service (INS) to protect immigrant youth from being held in INS detention facilities, and from being deported and/or permanently separated from their families.
- Call for an end to the widespread secure detention of immigrant youth in INS facilities.
- Call on state policymakers to conduct oversight hearings on how the state collects data on Latino/a youth in the justice system.
- Advocate for state laws that mandate use of certified interpreters/translators at all proceedings.
- Call for seamless delivery of services to youth who are at risk for involvement with the justice system.

What can Latino/a youth do?

- Attend training in youth organizing and activism; recruit other youth to do the same.
- Contact other youth-led campaigns (e.g., in the San Francisco Bay area, New York, and other cities) currently working to stop the construction of more large, warehouse-like, locked facilities for juveniles. Speak out about the over-incarceration of youth of color.
- Start a "speakers bureau" of Latino/a youth who can present factual information and personal stories of experiences with the justice system.
- Testify before legislative committees charged with developing juvenile justice laws and call for significant reform of the juvenile justice system to eliminate racial bias and discrimination.
- Meet with local and state government representatives who are responsible for developing and implementing juvenile justice policies to call for serious reform of the juvenile justice system to eliminate racial and ethnic bias and discrimination.
- Call for clear, complete and consistent information on referral, program and placement alternatives, legal proceedings, and agency procedures. Request that these materials be

provided in Spanish or that a translator be made available whenever one is needed, particularly at each court appearance.

- Get involved with local "watch dog" groups advocating for accountability in the elimination of racial and ethnic disparities in the system.

What can Latino/a parents do?

- Become knowledgeable about the problems of disproportionate representation and disparate treatment of Latino/a youth in the justice system and the rights of parents; share factual information with other parents. Hold neighborhood gatherings that discuss action plans for addressing the problem; document progress as action plans are implemented.
- Become vocal advocates for Latino/a youth in the system instead of accepting the system's procedures and practices that perpetuate disproportionality.
- Call for clear, complete and consistent information on referral, program and placement alternatives, legal proceedings, and agency procedures. Request that these materials be provided in Spanish, if that would be helpful, or that a translator be made available, particularly at each court appearance.
- Advocate for clear information – fact sheets, handbooks, brochures, and other materials – provided in the family's preferred language.
- Organize collectively, including through schools and faith-based organizations.
- Join local, regional, and national Latino-serving organizations that deal with juvenile justice issues.
- Develop support groups for parents and families impacted by the juvenile justice system. Include workshops (on such topics as how the system works, legal rights of youth and parents, use of interpreters, etc.). Include parents and youth who have been impacted by the system.
- Develop public service announcements (PSAs) for Latino/a parents and air them on radio and television programs.

What can law enforcement do?

- Eliminate racial profiling from all law enforcement practices.
- Document all law enforcement contacts with youth by race and ethnicity, including contacts not resulting in arrest, in order to monitor when law enforcement practices and procedures result in racial and ethnic disparities.
- Develop policies encouraging release of youth to parents, guardians or other responsible parties.
- Encourage the use of community policing procedures by officers who are knowledgeable about available children's services and cultural norms and practices in the community.
- Work with community leaders, the National Association of Hispanic Educators (NAHE), and the National Community for Latino Leadership, Inc. (NCLL) to develop and implement a training program in cultural competence aimed at increasing participants' understanding of the unique issues and challenges confronting Latino/a youth and families within their respective jurisdictions.
- Train law enforcement personnel in cultural sensitivity related to specific Latino/a ethnic subgroups.

- Ensure that law enforcement professionals throughout the country develop outreach programs to improve trust levels among Latino/a communities.
- Educate Latino/a immigrants regarding the proper role of law enforcement in the United States, as well as where and how to report abuses of that role.

What can the justice system do?

- Collect data in a way that permits analysis of the extent – and ultimately the causes – of over-representation and disparate treatment of Latino/a youth. Different approaches could achieve this goal:
  - ✓ Use a single "race/ethnicity" category, such as the category that appears on many government documents (e.g., federal loan applications). This category would include White, Black, Asian American, Native American, and Latino/Hispanic.
  - ✓ Alternatively, use the U.S. Bureau of the Census system of classifying persons by both race and ethnic origin.
  - ✓ Adopt the approach used by Latin American nations in which race is considered a secondary characteristic. Identify ethnicity prior to racial categorization.
- The Census Bureau and the Justice Department should conduct an independent review of all states that documents the methods for addressing issues of Latino/a disproportionality. Most notably, states should share their strategies for documenting Latino/a youth in the justice system. Based on this review, a common strategy can be developed for all states that would facilitate an accurate and consistent methodology to monitor and implement documentation of Latinos/as who come into contact with the justice system.
- Revamp risk assessment procedures, as successfully done in Santa Cruz County, California and Multnomah County (Portland), Oregon and discussed in Section 6 of this report.
- Require states to collect data and establish databases at the county level to ensure accurate information regarding Latino/a youth interactions with the justice system.
- The Office of Juvenile Justice and Delinquency Prevention, in collaboration with state and local agencies, should develop a common reporting mechanism for documentation of Latino/a race and ethnicity. This strategy should be employed at all levels of the juvenile justice system—including police, detention, court proceedings, probation, state commitment agencies, etc.—to ensure accurate and consistent data at all levels.
- States should adopt an approach of permitting youth to identify their own race and/or ethnicity. In addition, given the growing rate of multiracial and inter-ethnic marriages and families in the U.S. and internationally, multiracial and multi-ethnic youth should be able to identify and report their diverse heritage, and should not be required to select a single racial or ethnic category. Consideration should be given to methods for avoiding duplicate reporting, over-statement, under-counting, or other inaccuracies in reporting numbers of youth in the system.
- Establish a program with Hispanic serving institutions (HSIs)[10] to increase the number of bilingual professionals in the juvenile justice system. Undertake similar efforts with non-HSIs.
- Employ bilingual staff in equal proportion to the percentage of youth in the system who are predominantly Spanish-speaking and whose parents are monolingual Spanish speakers.

[10] See Footnote 8, page 54.

- Permit youth freedom to communicate in the language of their choice.
- Provide written materials and verbal information in both English and Spanish. The written materials should be at the level of reading proficiency of the local Latino/a population. In addition, translation should not be literal, but rather culturally and linguistically appropriate. In order to achieve these ends, a professional translator/interpreter should be hired rather than using institutional staff who speak Spanish.
- Develop guidelines that prohibit probation departments, prosecutors and juvenile court judges from inappropriately taking immigration status into account in decisions about detention, transfer to adult court, and disposition. Decisions regarding immigrant youth should be based on the same criteria as decisions regarding other youth in the system.
- Develop guidelines that prohibit probation departments and juvenile detention centers from placing "informal holds" on youth and detaining youth for the purpose of notifying the INS.
- Work with juvenile justice system personnel to ensure that young Latino/a immigrants in the custody of the INS are not needlessly locked away in juvenile detention facilities. When temporary confinement is necessary, ensure that these youth are processed and released to their families or to community programs as quickly as possible.
- Develop guidelines that prohibit probation departments, prosecutors and juvenile court judges from recommending deportation of youth.
- Encourage the development and implementation of uniform "non-cooperation agreements" between the INS and juvenile/adult justice agencies.
- Require INS to separate youth from adult inmates in all facilities, as is required in the juvenile justice system under the federal Juvenile Justice and Delinquency Prevention Act.
- Recruit, hire, and train more U.S. attorneys, public defenders, and advocates who are Latino/a, or who speak Spanish and are culturally competent, to direct and conduct services and initiatives targeted at strengthening Latino/a youth and families.
- Convene a meeting of key players in the juvenile justice system to educate them about the reform efforts of other jurisdictions that are making efforts to address the disproportionate representation and disparate treatment of youth of color, such as Santa Cruz (CA), Portland (OR), and Phoenix (AZ).
- Create more community-based alternatives to detention programs. (See, e.g., Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative, http://www.aecf.org/initiatives/jdai/)
- Ensure that numbers of Latino/a employees at all levels closely reflect the numbers of Latino/a youth served by juvenile justice agencies, both public and private.
- Ensure that hiring practices, job performance reviews, and promotion policies include consideration of a candidate's ability and experience in working well with persons of differing races, cultures and languages, particularly with Latino/a youth.
- Regulate or amend provisions giving prosecutors "direct file" authority to prosecute youth in adult criminal court and require that waiver decisions be individualized and made by judges.
- Actively enlist the support of juvenile court judges, who have been major influences in shaping and reshaping juvenile courts.

- Train detention staff to administer a valid, racially and ethnically unbiased risk and needs assessments designed to determine whether each youth should be released. Present the results of this assessment to the court at the initial detention hearing.
- Ensure that public and private residential programs serving youth offenders clarify their incident reporting processes to ensure consistent application of rewards and sanctions for all youth.
- Adopt an approach that allows state and county juvenile justice directors to accurately assess and monitor disproportionate representation of Latinos/as across all levels of the juvenile justice system (e.g., arrest, detention, petition, waivers, adjudication), as well as to conduct the trend analyses necessary to document changes over time in disproportionate Latino/a representation.

What can advocates and grassroots organizers do?

- Organize coalitions of advocacy groups nationally for the purpose of educating one another, sharing successful strategies, and collaborating on national campaigns.
- Advocate for a requirement that state justice system agencies, the Federal Bureau of Investigation and other agencies within the U.S. Department of Justice keep accurate crime and court-related statistics regarding Latinos/as, fully accounting for ethnic and racial distinctions in all information released by the agencies. Hold these agencies accountable for accurate data collection.
- Advocate for additional funding to ensure that law enforcement, justice system, education, and mental health professionals are adequately trained in the Spanish language and in cultural competence regarding specific Latino/a ethnic groups.
- Ensure that those impacted by the system (e.g., youth who have been in the system and their families) are included as integral parts of training programs for system personnel.
- Establish a national advisory council for youth in the juvenile justice system.
- Create users' guides and directories for individuals and groups working on issues of disproportionate representation and disparate treatment of Latino/a youth in the justice system.
- Implement public education and media strategies to raise awareness of the issues discussed in this report. Include public service announcements (PSAs), web sites, and fact sheets. Speak out on radio and television programs.
- Advocate to have certified interpreters available in all judicial proceedings involving Spanish-speaking or limited English proficiency (LEP) youth.
- Hold town hall meetings for legislators and other interested citizens that provide information on the problems associated with Latino/a youth in the justice system.
- Encourage more monitoring and oversight of INS practices by human rights organizations and governmental agencies.
- Learn about gang databases, gang enhancement statutes, and other policies concerning gangs in your community.
- Demand that constitutional due process apply to all youth, regardless of gang affiliation.
- Advocate for the elimination of gang databases.
- Advocate for the elimination of "gang-injunction zones," which make certain areas off limits to youth who police believe are gang members.

- Advocate for the allocation of significantly increased funding for decaying schools in inner cities, after-school youth programs and jobs to create more options for youth in their communities.

What can public officials and policy makers do?

- Enact legislation that advances the strategies outlined in this report, specifically those most likely to reduce the disproportionate representation and disparate treatment of Latino/a youth in the justice system.
- Conduct hearings on how the state collects data on Latino/a youth in the justice system, as well as on INS procedures and treatment of Latino/a youth.
- Enact legislation to reduce over-reliance on incarceration.
- Amend or repeal laws that may disproportionately impact Latino/a youth – such as laws providing long mandatory sentences for alleged gang involvement, drug laws with mandatory minimum sentences, "three-strikes" laws, and RICO statutes.
- Ensure that state law mandates written findings by the judge at detention hearings. The written findings should include reasons why youth cannot be placed at home or in less restrictive environments.
- Enact legislation and provide funding to establish a longitudinal national database with county-level data on Latino/a youth in the U.S. justice system.
- Support legislation to ensure that young Latino/a immigrants in the custody of the Immigration and Naturalization Service are not locked away in juvenile detention facilities. When temporary confinement is necessary, ensure that youth are processed and transferred out of these facilities in less than one week.
- Hold town hall meetings. Invite families, parents of incarcerated youth, and Latino/a community youth and organizations in your district to participate in discussions about juvenile justice reform efforts.
- Develop a systematic, uniform monitoring procedure to determine the percentage of Latino/a youth being processed at each stage of interaction with the justice system in each county across the United States.
- Provide training to personnel in each of the 50 states and the District of Columbia regarding how to collect data.
- Designate a national Latino/a organization (e.g., Mexican American Legal Defense and Education Fund, National Council of La Raza) to become a national repository for data pertaining to Latino/a youth in the justice system and to release periodic reports that document progress on issues pertaining to Latino/a youth involvement in the justice system. Require states to provide data annually.
- Fund a national organization, in collaboration with officials from the justice system, to conduct a census of youth institutions (public and private) to determine current incarceration of Latino/a youth.
- Fund a national organization, in collaboration with officials from the justice system, to conduct a census of juvenile court records in multiple states, as well as counties within states (high, medium, and low Latino/a population density) to analyze court processing and adjudication of Latino/a youth.
- Require all states to gather data in a manner that includes a "Latino" or a "Hispanic" category that allows for the separation of ethnicity from race. Conduct an audit of states to ensure that adequate procedures are used to distinguish between ethnicity and race.

- Develop a national protocol for documenting the categorization of individuals of Latino/a ethnicity who also have African or Native/Indigenous ancestry.
- Require counties and states to disaggregate Latino/a Blacks and African Americans as well as indigenous populations, just as Caucasians are divided into White and Hispanic White categories.
- Ensure availability of bilingual services, including both interpretation and translation of materials – 24 hours per day, 7 days per week – to ensure that Latino/a youth are afforded due process under the law, to optimize the probability of helping Spanish-speaking youth and their families, and to facilitate the youths' rehabilitation.
- For states that have a commission for Spanish-speaking affairs, engage the commission to protect the rights of youth who are brought before the justice system by providing translation/interpretation assistance when needed. Also ensure that the commission works with the Department of Justice to translate all documents and to facilitate cultural-sensitivity programming for Latino/a populations in the state.
- Expand ethnic categories to include all Latin American nations.
- Develop a method for documenting the multi-ethnicities of Latino/a youth.
- Permit youth to self-identify the ethnic group with which they identify.
- Encourage counties with Latino/a populations to replicate policing procedures used in Santa Cruz County (CA) and Multnomah County (OR) to reduce over-representation of youth of color in the justice system.
- Employ more bilingual professionals who have demonstrated competencies across Latino/a communities to work with state agencies to ensure the accuracy of information from families and youth who are predominantly Spanish-speaking.
- Apply sanctions to states that fail to collect data on Latino/a youth as required by the Juvenile Justice and Delinquency Prevention Act.
- Ensure that states have all documents available in Spanish in order to minimize interpretive errors.

What can researchers do?

- Seek funding for and conduct longitudinal studies of Latino/a youth in the U.S. justice system, tracking trends using both quantitative and qualitative methods (such as focus groups of individuals who have experience with the system).
- Focus on research providing evidence of disparity of treatment as opposed to over-representation of youth of color in the system. As a report by The National Research Council (2001) concluded, "Given the importance of the problem of race, crime, and juvenile justice in the United States, the scant research attention that has been paid to understanding the factors contributing to racial disparities in the juvenile justice system is shocking" (p. 258).
- Link with professional organizations that can disseminate relevant research findings through their policy divisions.

9. Additional Resources

This resource list is a work in progress. To obtain a more complete listing, please visit the ***Building Blocks for Youth*** *website at www.buildingblocksforyouth.org*

NATIONAL

ASPIRA Association, Inc.
1444 Eye Street, NW
Suite 800
Washington, DC 20005
Phone: (202) 835-3600
Fax: (202) 835-3613
info@aspira.org
http://www.aspira.org

With community-based centers in six cities, ASPIRA empowers Latino communities through the educational and leadership development of Latino/a youth.

Chicano / Latino Youth Leadership Project
P.O. Box 161566
Sacramento, CA 95816
Phone: (916) 446-1640
http://www.clylp.com

Establishes leadership and training programs forLatino/a high school students in order to prepare the students for participation in California's political, economic, and social development.

Hispanic Federation
130 William Street, 9th Floor
New York, New York 10038
Phone: (212) 233-8955
Fax: (212) 233-8996
http://www.hispanicfederation.org

A New York based umbrella organization of over 60 member agencies throughout the Northeast serving Latinos/as' health and human service needs.

Hispanic National Bar Association (HNBA)
820 Greensboro Drive
Suite 300
MacLean, VA 22102
Phone: (703) 610-9038
Fax: (703) 610-9005
http://www.hnba.com

Increases professional opportunities for Hispanics in the legal profession and addresses issues of concern for the larger national Hispanic community.

JobLatino
3218 March Lane
Garland, TX 75042
info@joblatino.com
http://www.joblatino.com

Provides information on various employers, job trainings, and scholarships for Latino/a Americans. This website also has a comprehensive list of links to Latino/a organizations across the nation.

Latino Issues Forum: A Public Policy and Advocacy Institute
785 Market Street, Third Floor
San Francisco, CA 94103
Phone: (415) 284-7220

Focuses on addressing public policy issues and how these policies will affect the social and economic future of the Latino community.

Fax: (415) 284-7222
http://www.lif.org

Latino Social Workers Organization (LSWO)
lswo@aol.com
http://www.lswo.org

Promotes the professional development of Latino/a social workers and advocates, supports, and participates in addressing concerns and issues that impact the Latino community.

League of United Latin American Citizens (LULAC)
2000 L Street, NW
Suite 610
Washington, DC 20036
Phone: (202) 833-6130
http://www.lulac.org

Advances the economic condition, educational attainment, political influence, health, and civil rights of Latino/a Americans.

Mexican American Legal Defense and Educational Fund (MALDEF)
1717 K Street, NW
Suite 311
Washington, DC 20036
Phone: (202) 293-2828
Fax: (202) 293-2849
http://www.maldef.org

Provides litigation, advocacy, and educational outreach for Latinos/as; fosters policies, laws, and programs to protect Latinos/as in America and empowers Latino communities to participate fully in American society.

National Alliance for Hispanic Health
1501 16th Street, NW
Washington, DC 20036
Phone: (202) 387-5000
Fax: (202) 797-4353
http://www.hispanichealth.org

A network of health and human service providers that work to improve the health and well being of Latinos/as in the United States.

National Association for the Advancement of Hispanic People (NAAHP)
info@naahpmember.org
http://www.naahpmember.org

Provides information and leadership on critical issues and publicly endorses political candidates that support a Hispanic agenda; promotes the economic success, financial freedom, and independence for all Hispanic and Latino communities.

National Community for Latino Leadership, Inc. (NCLL)
1701 K Street
Suite 301
Washington, DC 20009
Phone: (202) 721-8296
ncll@latinoleadership.org
http://www.latinoleadership.org

A network of leadership organizations that develops leaders who are committed to ethical and responsible actions on behalf of Latinos/as in the United States; promotes the advancement of the Latino community.

National Council of La Raza (NCLR)
1111 19th Street, NW
Suite 1000
Washington, DC 20036
Phone: (202) 785-1670
http://www.nclr.org

Reduces poverty and discrimination and improves life opportunities for Hispanic Americans through capacity-building assistance to support and strengthen community-based Hispanic organizations and through applied research, policy

analysis, and advocacy that provide a Hispanic perspective on various issues.

National Hispanic Institute
P.O. Box 220
Maxwell, TX 78656
Phone: (512) 357-6137
Fax: (512) 357-2206
nhi@nhi-net.org
http://www.nhi-net.org

Educates youth in order to bring out their skills and talents, including providing eight different leadership programs, operating both nationally and internationally, that serve between 3200 and 4000 youth.

National Latino Children's Institute
320 El Paso Street
San Antonio, TX 78207
Phone: (210) 228-9997
Fax: (210) 228-9972
nlci@nlci.org
http://www.nlci.org

Conducts ethnographic research in order to gather information on policies and programs that affect Latino children, selects outstanding community-based programs to serve as models of "what works" in Latino communities, and provides training and technical assistance on programs and policies that value youth and help build strong, healthy communities.

Prison Moratorium Project (PMP)
180 Varick Street
12th Floor
New York, NY 10014
Phone: (646) 486-6715
Fax: (212) 727-8616
pmp@nomoreprisons.org
http://www.nomoreprisons.org

A youth-led grassroots organization dedicated to stopping the expansion of prisons, empowering youth and other people affected by prison expansion, and advocating for a fair and humane criminal justice system

Puerto Rican Legal Defense and Educational Fund (PRLDEF)
99 Hudson Street
14th Floor
New York, NY 10013
Phone: (800) 328-2322
Fax: (212) 431-4276
http://www.charities.org/prldef

Secures the economic, political, social, and legal rights of Puerto Ricans and Latinos living in America through education, litigation, research, and policy.

STATE

Alaska

State Commission for Human Rights
Executive Director, Paula M. Haley
800 'A' Street, Suite 204
Anchorage, AK 99501-3669
Phone: (907) 276-7474
Fax: (907) 278-8588
Web page: www.state.ak.us

Arizona

Arizona-Mexico Commission
President of AMC, Jose A. Cardenas
1700 W. Washington, Suite 180
Phoenix, AZ, 85007
Phone: (602) 542-1345
Fax: (602) 5421411
Email: igonzalez@az.gov

California

Office of California-Mexico Affairs
750 'B' Street, Suite 370
San Diego, CA, 92101
Phone: (619) 645-2660

Colorado

Minority Business Advisory Council
(MBAC)
Director, Valerie Arvizu
1625 Broadway, Suite 1700
Denver, CO, 80202
Phone: (303) 892-3840
Fax: (303) 892-3848
Email: Valerie.Arvizu@state.co.us
Web page: www.state.co.us/oed/mbo

Connecticut

Latino and Puerto Rican Affairs
Commission
18-20 Trinity St.
Hartford, CT, 06106
Phone: (860) 240-8330
Fax: (860) 240-0315
Email: LPRAC@po.state.ct.us
Website: www.cga.state.ct.us//lprac/

Delaware

Office of Human Relations
Carvel State Office Bldg.
820 N. French St., 4th Floor
Wilmington, DE, 19801
Phone: (302) 577-5050
Fax: (302) 577-3486

Florida

Florida Hispanic Affairs Commission
The Capitol
Tallahassee, FL, 32399
(Currently inactive)

Florida Commission on Human Races
325 John Knox Rd.
Building K, Suite 240
Tallahassee, FL, 32303-4149
Phone: (850) 488-7082
Fax: (850) 488-5291
Email: fchrinfo@dms.state.fl.us
Website: http://fchr.state.fl.us

Georgia

Georgia Human Relations Commission
Brenda Foye Cornelius, Director
1720 Peachtree St., NW, Suite 333
N. Tower, Georgia, 30309
Phone: (404) 206-6320
Fax: (404) 206-6322
Email: ghrcatl@flash.net

Hawaii

Department of Human Services
Susan M. Chandler, Director
Queen Liliuokalani Bldg.
1390 Miller St.
P.O. Box 339
Honolulu, Hawaii, 96813
Phone: (808) 586
Fax: (808) 586-4889

Hawaii Civil Rights Commission
830 Punchbowl St., Rm. 411
Honolulu, Hawaii, 96813
Phone: (808) 586-8636

BEST COPY AVAILABLE

Fax: (808) 586-8655

Idaho

Idaho Commission on Spanish Speaking Affairs
Don Pena, Director
5460 W. Franklin Rd., Suite B
Boise, Idaho, 83705
Phone: (208) 334-3776
Fax: (208) 334-3778
Website: www.state.id.us/icha/

Illinois

Department of Human Services
Office of Hispanic/Latino Affairs
Peter Vina
401 S. Clinton, 2nd Floor
Chicago, IL, 60607
Phone: (312) 793-4306
Fax: (312) 793-7852
Email: DHSDO519@dhs.state.il.us

Indiana

Indiana Civil Rights Commission
Sandra D. Leek, Executive Director
Indiana Government Center North
100 N. Senate Ave., Room N103
Indianapolis, Indiana, 46204
Phone: (317) 232-2600
Fax: (317) 2326580
Website: www.state.in.us/icrc

Iowa

Iowa Latino Affairs
Elizabeth Salinas Newby, Administrator
Phone: (515) 281-4070
Fax: (515) 242-6119
Website:
www.state.ia.us/government/dhr/la/#anchor Menu

Kansas

Department of Human Resources
Kansas Advisory Committee on Hispanic Affairs (KACHA)
Tina DeLaRosa, Executive Director
1430 SW Topeka Blvd.
Topeka, Kansas, 66612
Phone: (785) 296-3465
Fax: (785) 296-8118
Email: tdelarosa@hr.state.ks.us

Kentucky

Minority Employment, Business Affairs and Economic Development Council
Governor's Office
700 Capitol Ave.
Frankfort, KY, 40601
Phone: (502) 564-2611

Kentucky Commission on Human Rights
Beverly Watts, Executive Director
332 W. Broadway, Suite 700
Louisville, KY, 40202
Phone: (502) 595-4024
Fax: (502) 595-4801
Website: www.state.ky.us/agencies2/kchr

Louisiana

Bureau of Minority Health Access
Durand Macklin
P.O. Box 629
1201 Capitol Access Rd., 3rd Floor
Baton Rouge, LA, 70821
Phone: (225) 342-4886
Fax: (225) 342-5568
Website: www.dhh.state.la.us/LAMHA

Maine

Human Rights Commission
51 State House Station
Augusta, ME, 04333
Phone: (207) 624-6050
Fax: (207) 624-6063
Department of Human Services
11 State House Station
221 State St.
Augusta, ME, 04333
Phone: (207) 287-3707

Maryland

Governor's Commission on Hispanic Affairs
Luis Ortega, Director
311 W. Saratoga St., Room 272
Baltimore, Maryland, 21201
Phone: (410) 767-7857
Fax: (410) 333-3982

Latino community website
http://www.baltimorelatino.com

Michigan

Michigan Commission of Spanish Speaking Affairs
201 North Washington Square, 3rd Floor
Lansing, MI 48913
Phone: (517) 373-8339
Fax: (517) 373-0176
www.mdcd.org/ssa/about.htm

Minnesota

Chicano Latino Affairs Council
555 Park St., Suite 210
St. Paul, MN, 55103
Phone: (651) 296-9587 or (651) 296-9588
Fax: (651) 297-1297
Email: clac.desk@state.mn.us

Mississippi

Mississippi Department of Human Services
750 N. State St.
Jackson, MS, 39202
Phone: (601) 359-4500

Missouri

Missouri Minority Business Advocacy Commission
Carla F. Smith, Coordinator
P.O. Box 118
Jefferson City, MO, 65102
Phone: (573) 751-3237
Fax: (573) 751-6899

Governor's Commission on Special Health, Psychological and Social Needs of Minority Older Individuals
Joy Williams and Richard Dunn, Co-Chairs
Division of Aging
615 Howerton Ct.
Jefferson City, MO, 65109
Phone: (573) 751-8535
Fax: (573) 751-8687

Montana

Department of Public Health and Human Services
Gail Gray, Director
P.O. Box 4210
111 N. Sanders, Rm. 301/308
Helena, MT, 59604

Nebraska

Mexican American Commission
Cecilia Olivarez Huerta, Executive Director
P.O. Box 94965
129 North 10th St. Room 120
Lincoln, NE 68509-4965
Phone: (402) 471-2791
Fax: (402) 471-4381
Email: mac1000@vmhost.cdp.state.ne.us

New Hampshire

NH Human Rights Commission
Katherine Daly, Executive Director
2 Chenell Dr.
Concord, NH, 03301
Phone: (603) 271-2767
Fax: (603) 271-6339
Email: humanrights@nhsa.state.nh.us

New Jersey

New Jersey Department of Community Affairs
Center for Hispanic Policy, Research and Development
Angie Armand, Director
P.O. Box 800
101 S. Board St., CN 800
Trenton, NJ, 08625
Phone: (609) 984-3223
Fax: (609) 984-0821
Email: chprd@dca.state.nj.us
Website: www.state.nj.us/dca/chprd

Ohio

Ohio Commission on Hispanic/Latino Affairs
Juan Lara, Executive Director
77 S. High St., 18th Floor
Columbus, OH, 43215
Phone: (614) 466-8333
Fax: (614) 995-0896
Website: www.state.oh.us/spa

Oregon

Oregon Commission on Hispanic Affairs
Gabriel M. Silva, Director
350 Winter St. NE, Room 200
Salem, Oregon, 97301
Phone: (503) 947-7007
Fax: (503) 378-6444

Email: gabriel.m.silva@state.or.us
Website: www.state.oregonhispanic.org

Pennsylvania

Pennsylvania Human Relations Commission
301 Chestnut Street, Suite 300
Harrisburg, PA 17101
Phone: (717) 787-4410
Website: www.phrc.state.pa.us

Rhode Island

Commission for Human Rights
10 Abbott Park Place
Providence, RI 02903
Phone: (401) 222-2661
Fax: (401) 222-2616

Center for Hispanic Policy and Advocacy
421 Elmwood Avenue
Providence, RI 02907
Phone: (401) 964-0111

South Carolina

South Carolina Human Affairs Commission
P.O. Box 4490
2611 Forrest Drive, Suite 200
Columbia, SC 29204
Phone: (803) 737-7800
(800) 521-0725
Website: www.state.sc.us/schac/
State Commission for Minority Affairs
6904 North Main Street, Suite 107
Columbia, SC 29203
Phone: (803) 333-9621
Fax: (803) 333-9627
Website: www.state.sc.us/cma/

South Dakota

South Dakota Division of Human Rights
118 West Capitol Ave
Pierre, SD 57501
Phone: (605) 773-4493
Fax: (605) 773-6893
Email: Marianne_Gabriel@state.sd.us
Website: www.state.sd.us/dcr/hrl

Tennessee

Human Rights Commission
530 Church Street, Suite 400
Cornerstone Square Building
Nashville, TN 37243-0745
Phone: (615) 741-5825
Website: www.state.tn.us/humanrights/
Minority Affairs
105 War Memorial Building
Nashville, TN 37243
Phone: (615) 741-3900
Email: Barbara.nance@legislature.state.tn.us

Texas

Texas Commission on Human Rights
P.O. Box 13006
Austin, TX 78711-3006
Phone: (512) 437-3450
Fax: (512) 437-3478
Website: http://tchr.state.tx.us

Utah

Utah State Department of Human Services
120 North 200 West
Salt Lake City, UT 84103
Phone: (801) 538-4001
Fax: (801) 538-4016
Website: www.dhs.state.ut.us
Office of Hispanic Affairs
Utah Department of Community and
Economic Development
324 South State Street, Suite 500
Salt Lake City, UT 84111
Phone: (801) 538-8700
Fax: (801) 538-8888

Vermont

Vermont Human Rights Commission
135 State Street, Drawer 33
Montpelier, VT 05633
Phone: 1-800-416-2010 or (802) 828-2480
Fax: (802) 828-2481
Email: human.rights@hrc.state.vt.us
Website: www.hrc.state.vt.us

Virginia

Council on Human Rights
Washington Building
1100 Bank Street
Richmond, VA 23219
Phone: (804) 225-2292 or 1-800-633-5510

Washington

Human Rights Commission

711 South Capitol Way #402
P.O. Box 42490
Olympia, WA 98504-2490
Phone: (360) 753-6770 or 1-800-233-3247
Fax: (360) 586-2282

Commission on Hispanic Affairs
Website: www.wahispaniccommission.org

West Virginia

Human Rights Commission
1321 Plaza East, Room 108A
Charleston, WV 25301-1400
Phone: (304) 558-2616 or 1-888-676-5546
Website: www.state.wv.us/wvhrc/

Wisconsin

Madison Equal Opportunities Commission
210 Martin Luther King, Jr. Blvd.
Madison, WI 53710
Phone: (608) 266-4910
Fax: (608) 266-6514

Wyoming

No information available

Washington DC

District of Columbia Office of Human Rights
441 4th Street NW, Suite 570N
Washington, D.C. 20001
Phone: (202) 727-4559
Website: www.ohr.washingtondc.gov/

10. Acknowledgements

Building Blocks for Youth
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This study is the seventh report published by Building Blocks for Youth, a multi-year initiative to reduce over-representation and disparate treatment that affect youth of color in the justice system and to promote rational and effective juvenile justice policies. The initiative has five major components:

1. Research on the disparate impact of the justice system on youth of color and related topics such as the effects of adult court transfer legislation in the states, the privatization of juvenile justice facilities by for-profit corporations, and the media's portrayal of crime, youth and race.

2. Site-based work to achieve measurable reductions in over-representation and disparate treatment of youth of color, focusing on (a) decision-making at critical points in the justice system, including arrest, detention, adjudication, and disposition; (b) over-incarceration; (c) prosecution of youth in adult criminal court; (d) zero tolerance policies, (e) Native American youth, and (f) police accountability.

3. Direct advocacy on behalf of youth of color in the justice system, particularly on issues that disproportionately affect youth of color, such as conditions of confinement in jails, prisons, juvenile facilities, and access to counsel and adequacy of representation in juvenile court.

4. Constituency-building among African-American, Latino, Native American, Asian and other minority organizations, youth organizations, state-based advocacy groups, and organizations in the civil rights, medical, mental health, legal, law enforcement, child welfare, human rights, religious, victim's rights, and domestic violence areas, at the national, state, and local levels.

5. Development of communications strategies to provide timely, accurate, and relevant information to these constituencies, public officials, policymakers, the media, and the public.

The partners in the initiative are the Youth Law Center, American Bar Association Juvenile Justice Center/National Juvenile Defender Center, Juvenile Law Center, Justice Policy Institute, Minorities in Law Enforcement, and Pretrial Services Resource Center.

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The Authors

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Dr. Villarruel's research focus is generalized into the three areas: developmental contextualism, Latino youth and families, and positive youth development. He is the co-editor two books: *Making Invisible Latino Youth Visible: A Critical Approach to Latino Diversity* and *Community Youth Development, Beacons and Promises*, and is working on an edited volume tentatively entitled *Community Youth Development: Challenges, Beacons, and Opportunities for Healthier Futures.*

Nancy E. Walker

Nancy E. Walker, Ph.D., M.L.S., is Associate Director of the Institute for Children, Youth, and Families and Professor of Family and Child Ecology at Michigan State University. She is co-convener of the Michigan Family Impact Seminars and author of two policy-related books, *The Child Witness: Legal Issues and Dilemmas* (1991) and *Children's Rights in the United States: In Search of a National Policy* (1999), both published by Sage. Currently, she is working on a series of projects related to "zero tolerance" education policies in Michigan.

Institute for Children, Youth, and Families
Michigan State University

ICYF at Michigan State University is a multidisciplinary institute supporting university-community collaborations in research, policy engagement, and outreach regarding children, youth, and families from diverse communities. ICYF maintains a portfolio of current and emergent projects of state, national and international scope that focus on four core areas:

- The Youngest
- Child and Youth Policy
- Family Diversity
- Violence Prevention

Authors
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11. References

Aguirre-Molina, M., & Molina, C. (1994). Latino population: Who are they? In C. Molina & M. Aguirre-Molina (Eds.), *Latino health in the United States: A growing challenge* (pp. 3-22). Washington, DC: American Public Health Association.

Arizona Juvenile Justice Service Division. (2001). *Juveniles processed in the Arizona court system FY 00.* Phoenix, AZ: Author. Available at http://www.supreme.state.az.us/jjsd/.

Arthur, L. G., Mildon, M. R., & Briggs, C. (Eds.). (1990). *Minority youth in the juvenile justice system: A judicial response.* Washington, DC: National Council of Juvenile and Family Court Judges.

Austin, J., Dimas, J., & Steinhart, D. (1992). *The over representation of minority youth in the California juvenile justice system.* Oakland, CA: National Council on Crime and Delinquency.

Beres, L. S., & Griffith, T. D. (2001, Jan.). "Demonizing youth" symposium—Rampart scandal: Policing the criminal justice system. *Loyola of Los Angeles Law Review*, 747-766.

Berry, J. W. (1980). Acculturation as varieties of adaptation. In Padilla (Ed.), *Acculturation: Theory, models and some new findings.* Boulder, CO: Westview Press.

Berry, J. W. (1983). Acculturation: A comparative analysis of alternative forms. In R. J. Samuda & S. L. Woods (Eds.), *Perspectives in immigrant and minority education* (pp. 65-78). Lanham, MD: University Press of America.

Bilchik, S. (1999). *Minorities in the juvenile justice system.* Washington, DC: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice.

Bishop, D. M., & Frazier, C. (1996). Race effects in juvenile justice decision-making: Findings of a statewide analysis. *Journal of Criminal Law & Criminology, 86,* 392-414.

Bishop, D. M., Frazier, C. E., Lanza-Kaduce, L., & Winner, L. (1996). The transfer of juveniles to criminal court: Does it make a difference? *Crime and Delinquency, 42,* 171-192.

Booth, C. (2000, Feb. 28). L.A.'s bandits in blue: A shocked city investigates charges that its cops have lied, stolen and shot suspects for sport, *Time*, 48.

Bridges, G. S., & Steen, S. (1998). Racial disparities in official assessments of juvenile offenders: Attributional stereotypes as mediating mechanisms. *American Sociological Review, 63,* 554-557.

Building Blocks for Youth. (2001, May 14). *Punitive policies hit minority youth hardest.* Washington DC: Youth Law Center. Available at http://www.buildingblocksforyouth.org/issues/dmc/facts_yoc.html

Burrell, S. (1990 Summer). *Gang evidence: Issues for criminal defense, Santa Clara Law Review*, 739-790.

California Penal Code § 186.22(b).

California Welfare & Institution Code § 707(b)(3), (25).

California Welfare & Institution Code § 707(d)(2).

Chemerinsky, E. (2001, Jan.). An independent analysis of the Los Angeles Police Department's Board of Inquiry report on the Rampart scandal, *Loyola of Los Angeles Law Review*, 545-655.

Child Welfare League of America (CWLA). (2002). *Cultural competency defined.* Adapted by CWLA (1981); revised (2001). Available at http://www.cwla.org/programs/culturalcompetence/.

Children's Bureau of the Child Welfare League of America. (1998). *Child maltreatment 1998.* Available at http://www.calib.com/nccanch.

Children's Defense Fund. (2001). *2001 children in the states.* Washington, DC: Author.

Children's Defense Fund Action Council. (2001). *The Juvenile Justice and Delinquency Prevention Act.* Available at www.cdfactioncouncil.org/jjdpa_act.htm.

Civil Rights Act of 1964. 42 U.S.C. 2000 et seq. (1964).

Coalition for Juvenile Justice. (2001). *Esperanza: Awakening to the strength of Latino youth.* Report on the 6th Annual Ethnic and Cultural Diversity Training Conference. Washington, DC: Author.

Cox, J. A. (2000, September). *Addressing disproportionate minority representation within the juvenile justice system.* Washington, DC: Building Blocks for Youth.

Del Pinal, J., & Singer, A. (1997). Generations of diversity: Latinos in the United States. *Population Bulletin, 52*(3). Washington, DC: Population Reference Bureau, Inc.

Dorfman, L., & Schiraldi, V. (2001). *Off balance: Youth, race & crime in the news.* Washington, DC: Building Blocks for Youth.

Driscoll. (2001). Six years old and in court: Thousands of unaccompanied children end up in detention in the United States. *Refugees, 1*, 15.

Elliott, D. (1994). Serious violent offenders: Onset, developmental course, and termination. 1993 Presidential address to The American Society of Criminology. *Criminology, 32*, 1.

Elsner, A. (2002, March 12). *U.S. immigration agency a harsh jailer of children.* London: Reuters News Service.

Fagan, J., Piper, E. S., & Moore, M. (1986). Violent delinquents and urban youth. *Criminology, 24*, 439-471.

Fisher, C. B., Jackson, J. J., & Villarruel, F. A. (1997).The study of ethnic minority children and youth in the United States. In R. M. Lerner (Ed.), *Theoretical models of human development* (pp. 1145-1207). Vol. 1 of *The handbook of child psychology* (5th ed.), Editor-in-Chief: William Damon. New York, NY: Wiley.

Flaherty, M. G. (1980). An assessment of the national incidence of juvenile suicide in adult jails, lockups, and juvenile detention centers. Urbana-Champaign: University of Illinois.

Flaherty, J. A., & Meagher, R. (1980). Measuring racial bias in inpatient treatment. *American Jouranl of Psychiatry, 127,* 679-682.

Forst, M., Fagan, J., & Vivona, T. S. (1989). Youth in prison and training schools: Perceptions and consequences of the treatment-custody dichotomy. *Juvenile & Family Court Journal, 40,* 1-14.

Frazier, C. E., & Cochran, J. C. (1986). Detention of juveniles: Its effects on subsequent juvenile court processing decisions. *Youth and Society, 17,* 286-305.

Glover, S., & Lait, M. (2002, Feb. 21). Former Rampart officer to be tried. *Los Angeles Times,* __.

Grieco, E. M., & Cassidy, R. C. (2001). *Overview of race and Hispanic origin: Census 2000 brief.* Washington, DC: U.S. Department of Commerce, Economics and Statistics Administration, U.S. Census Bureau.

Griffin, P. (2000). *State juvenile justice profiles: National overviews.* Pittsburgh, PA: National Council on Juvenile Justice. Available at http://www.ncjj.org/stateprofiles/.

Hamparian, D., & Leiber, M. (1997). *Disproportionate confinement of minority juveniles in secure facilities: 1996 national report.* Champaign, IL: Community Research Associates.

Hartstone, E. C., & Richetelli, D. M. (2001). *A reassessment of minority overrepresentation in Connecticut's juvenile justice system.* Hartford, CT: State of Connecticut, Office of Policy and Management, Policy Development and Planning Division.

Hatch, O. (1999, May 19). Statement to U.S. Congress. *Congressional Record, 145* at S5572.

Hawkins, D. F., & Hardy, K. A. (1989). Black-white imprisonment rates: A state-by-state analysis. *Social Justice, 16,* 79-94.

Hayes-Bautista, D. E., & Nichols, M. (2000, January). *American dream makers: Latino profiles study report.* Los Angeles, CA: Latino Profiles Committee.

Heuser, J. P. (1993). *Final research report on phase I of Oregon's participation in the Office of Juvenile Justice and Prevention Disproportionate Minority Confinement Program.* Report to Oregon Community Children and Youth Services Commission. Portland: OR.

Holman, B. (2001). *Masking the divide: How officially reported prison statistics distort the racial and ethnic realities of prison growth.* Alexandria, VA: National Center on Institutions and Alternatives.

Human Rights Watch. (1997, April). *Slipping through the cracks: Unaccompanied children detained by the U.S. Immigration and Naturalization Service.* Washington, DC: Author.

Human Rights Watch. (1998, Dec.). *Detained and deprived of rights: Children in the custody of the U.S. Immigration and Naturalization Service.* Washington, DC: Author.

Human Rights Watch (2002, Feb.). *Race and incarceration in the United States.* Washington, DC: Author. Available at www.hrw.org/press/2002/02/race0227.htm

Immigration and Naturalization Service (INS) Office of Public Affairs. (2000, Sept. 7). *Fact sheet: INS' juvenile detention and shelter care program.* Washington, DC: Author.

Inter-University Program for Latino Research. (2001). Available at www.nd.edu/~iuplr/

Juskiewicz, J. (2000). *Youth crime / adult time: Is justice served?* Washington, DC: Building Blocks for Youth.

Justice Policy Institute (JPI). (2001, January). *Reducing disproportionate minority confinement: The Multnomah County, Oregon success story and its implications.* JPI fact sheet. Washington DC: Office of Juvenile Justice and Delinquency Prevention. Available at http://www.cjcj.org/portland/portland_web.html.

Juvenile Justice and Delinquency Prevention Act of 1974, U.S.C. 42, §5633 (a) 23.

Kentucky Department of Juvenile Justice. (2000, March). *Kentucky disproportionate minority confinement initiative: Interim report.* Frankfort, KY: Author.

Leadership Conference on Civil Rights. (2000). Available at http://www.civilrights.org/lccr/.

Leonard, K., Pope, C., & Feyerherm, W. (Eds). (1995). *Minorities in juvenile justice.* Thousand Oaks, CA: Sage, Inc.

Lessenger, L. H. (1997). Use of acculturation rating scale for Mexican Americans II with substance abuse patients. *Hispanic Journal of Behavior Sciences, 19,* 387-398.

Males, M., & Macallair, D. (2000). *The color of justice: An analysis of juvenile adult court transfers in California.* Washington, DC: Building Blocks for Youth.

Marcucci, M. R. (2001, Nov. 25). The INS juvenile detainees: Some question the agency's treatment of children, *Oakland Tribune.*

Marsiglia, F., & Waller, M. (2000). Language preference and drug use among southwestern Mexican American middle school students. Tempe, AZ: School of Social Work, College of Public Programs, Arizona State University.

McCarthy, B. R., & Smith, B. (1986). The conceptualization of discrimination in the juvenile justice process: The impact of administrative factors and screening decisions on juvenile court dispositions. *Criminology, 24,* 41-63.

McEachern, A. W. (1968). The juvenile probation system: Simulation for research and decision making. *American Behavioral Scientist, 11,* 1-43.

Mendoza, F. S. (1994). The health of Latino children in the United States. *The Future of Children, 4,* 43-72.

Miller, E. (1986). *Street women.* Philadelphia, PA: Temple University.

Myers, S. L., & Simms, M. C. (1988). *The economics of race and crime.* New Brunswick, NJ: Transaction Publications.

National Council on Crime and Delinquency. (1993). *The juveniles taken into custody research program: estimating the prevalence of juvenile custody rates by race and gender.* Washington DC: Author.

National Research Council, Panel on Juvenile Crime: Prevention, Treatment, and Control. (2001). Race, crime, and juvenile justice: The issue of racial disparity. In J. McCord et al. (Eds.), *Juvenile crime, juvenile justice.* Washington, DC: Author.

Nugent, C., & Schulman, S. (2001, Oct. 8). Giving voice to the vulnerable: On representing detained immigrant and refugee children. *Interpreter Releases, 78,* no. 39.

O'Connor, A-M. (2000, Mar. 25). Massive gang member list now clouded by Rampart, *L.A. Times*.

Obeler, S. (1995). *Ethnic labels, Latino lives: Identity and the politics of (re)presentation in the United States*. Minneapolis: University of Minnesota Press.

Office of Juvenile Justice and Delinquency Prevention, U.S. Department. of Justice. (2000). *1998 National Youth Gang Survey*. Washington DC: Author.

Office of Juvenile Justice and Delinquency Prevention (OJJDP) website. Available at www.ojjdp.ncjrs.org.

Ohio Department of Youth Services, Office of Research. (1998). *Commitment / Regional Trend Report: FY 1997 – FY 1998*. Columbus, OH: Author.

Ohio Department of Youth Services, Office of Research. (1999). *Commitment / Regional Trend Report: FY 1998 – FY 1999*. Columbus, OH: Author.

Ohio Department of Youth Services, Office of Research. (2000). *Commitment / Regional Trend Report: FY 1999 – FY 2000*. Columbus, OH: Author.

People v. Olguin (1994). 31 Cal.App.4th 1355, 37 Cal.Rptr.2d 596 (Cal.App. 4 Dist. Dec. 30, 1994), rehearing denied (Jan. 30, 1995), review denied (Apr. 27, 1995)).

Perez-McCluskey, C. (2002). *Understanding Latino delinquency: The applicability of strain theory by ethnicity*. New York: LFB Scholarly Publishing LLC.

Phinney, J.S. (1996). Understanding ethnic diversity: The role of ethnic identity. *American Behavioral Scientist, 40,* 143-152.

Poe-Yamagata, E., & Jones, M. (2000). *And justice for some: Differential treatment of minority youth in the justice system*. Washington, DC: Building Blocks for Youth.

Pope, C. E., & Feyerherm, W. (1990a). Minority status and juvenile justice processing: An assessment of the research literature (Part I). *Criminal Justice Abstracts, 22,* 327-335.

Pope, C. E., & Feyerherm, W. (1990b). Minority status and juvenile justice processing: An assessment of the research literature (Part 2). *Criminal Justice Abstracts, 22,* 527-542.

Pritchard, H., & Schulman, S. (2001, Summer). Children as bait and bond: INS release policies and practices for children, *Detention Watch Network News*.

Reno v. Flores, 507 U.S. 292 (1993). Available online at http://www.centerforhumanrights.org.

Robert L. v. Orange County Superior Court, 114 Cal.Rptr.2nd 458 (Oct. 24, 2001).

Roscoe, M., & Morton, R. (1994, April). *Disproportionate minority confinement*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention Fact Sheet #11.

Rubin, H. T. (1996). The nature of the court today. *The Future of Children, 6,* 40-52.

Schiraldi, V., & Ziedenberg, J. (2002). *Reducing disproportionate minority confinement: The Multnomah County, Oregon, success story and its implications*. Washington, DC: Justice Policy Institute.

Secretariat of the Inter-Governmental Consultation on Asylum, Refugee and Migration Policies in Europe, North America, and Australia. (1997, July). *Report on unaccompanied minors: Overview of policies and practices in IGC participating states.* Available at http://www.igc.ch/.

Snyder, H. N., & Sickmund, M. (1999a, September). *Juvenile offenders and victims: 1999 national report.* Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

Snyder, H. N., & Sickmund, M. (1999b, December). *Minorities in the juvenile justice system.* 1999 National Report Series: Juvenile Justice Bulletin. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

Snyder, H., Poole R., & Wan, Y. (2000). Easy access to juvenile populations. Online. Available at http://www.ojjdp.ncjrs.org/ojstatbb/ezapop/.

Soler, M. I., Miller-Wilson, L., & Levick, M. (2001). Amicus curiae brief on behalf of Morgan Victor Manduley, *et al., Manduley v. Superior Court of the State of California, San Diego County* (2001).

Strom, K. J. (2000, February). *Profile of state prisoners under age 18, 1985-97.* Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

Tonry, M. (1995). *Malign neglect: Race, crime, and punishment in America.* New York: Oxford University Press.

Umaña-Taylor, A. J., & Fine, M. A. (2001). Methodological implications of grouping Latino adolescents into one collective ethnic group. *Hispanic Journal of Behavioral Sciences, 23,* 347-362.

United States Census Bureau. (2001). *2000 Census Summary File 1.* Available at www.census.gov/population/estimates/rho.txt.

United States Office of the Inspector General. (2001, Sept. 28). *Unaccompanied juveniles in INS custody.* Report Number I-2001-009. Washington, DC: Author.

Appendix A

Top Ten States for Latino Population (2000)

The table below lists the top 10 states for total Latino population, as well as for each sub-category of Latinos. For example, the three states with the largest proportions of total Latino population are California, Texas, and New York; the three states with the largest Mexican populations are California, Texas, and Illinois; and the three states with the largest Puerto Rican populations are New York, Florida, and New Jersey.

Specific Origin/Rank	1	2	3	4	5
Total Latino	California (10,966,556)	Texas (6,669,666)	New York (2,867,583)	Florida (2,682,715)	Illinois (1,530,262)
Mexican	California (8,455,926)	Texas (5,071,963)	Illinois (1,144,390)	Arizona (1,065,578)	Colorado (450,760)
Puerto Rican	New York (1,050,293)	Florida (482,027)	New Jersey (366,788)	Pennsylvania (228,557)	Massachusetts (199,207)
Cuban	Florida (833,120)	New Jersey (77,337)	California (72,286)	New York (62,590)	Texas (25,705)
Dominican Republic	New York (455,061)	New Jersey (102,630)	Florida (70,968)	Massachusetts (49,913)	Rhode Island (17,894)
Central American	California (576,330)	Florida (202,772)	New York (181,875)	Texas (146,723)	New Jersey (80,497)
Costa Rican	California (13,232)	Florida (11,248)	New Jersey (11,175)	New York (7,845)	Texas (3,302)
Guatemalan	California (143,500)	New York (29,074)	Florida (28,650)	Illinois (19,790)	Texas (18,539)
Honduran	Florida (41,229)	New York (35,135)	California (30,372)	Texas (24,179)	New Jersey (15,431)
Nicaraguan	Florida (79,559)	California (51,336)	New York (8,033)	Texas (7,487)	New Jersey (4,384)
Panamanian	New York (20,055)	Florida (15117)	California (10688)	Texas (7076)	Georgia (3745)
Salvadoran	California (272,999)	Texas (79,204)	New York (72,713)	Virginia (43,653)	Maryland (34,433)
Other Central American	California (54,203)	New York (9,020)	Texas (6,936)	Florida (6,268)	New Jersey (4,264)
South American	New York (318,387)	Florida (301,236)	New Jersey (177,017)	California (161,822)	Texas (51,428)
Argentinean	California (23,218)	Florida (22,881)	New York (14,407)	New Jersey (7,795)	Texas (4,711)
Bolivian	Virginia (11,275)	California (6,619)	Florida (4,659)	New York (4,221)	Maryland (2,998)
Chilean	California (13,530)	Florida (13,400)	New York (9,937)	New Jersey (5,129)	Texas (2,934)
Colombian	Florida (138,768)	New York (104,179)	New Jersey (65,075)	California (33,275)	Texas (20,404)
Ecuadorian	New York (123,472)	New Jersey (45,392)	Florida (23,939)	California (18,115)	Illinois (12,060)
Paraguayan	New York (2,668)	Florida (909)	New Jersey (803)	California (586)	Maryland (451)
Peruvian	California (44,200)	Florida (44,026)	New Jersey (37,672)	New York (37,340)	Virginia (10,525)
Uruguayan	New Jersey (4,079)	Florida (4,045)	New York (3,366)	California (1,639)	Texas (703)
Venezuelan	Florida (40,781)	New York (8,826)	Texas (6,305)	California (5,511)	New Jersey (3,962)
Other South American	California (15,129)	New York (9,971)	Florida (7,828)	New Jersey (5,355)	Texas (2,606)
Other Hispanic	California	Texas	New York	Florida	New Mexico

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or Latino	(1,554,575)	(1,300,047)	(538,488)	(428,667)	(423,874)
Spaniard	California (22,459)	Florida (14,110)	New York (13,017)	New Jersey (9,183)	Texas (7,202)
Spanish	California (162,214)	New Mexico (74,190)	Texas (64,926)	Colorado (53,591)	New York (51,578)
Spanish American	New Mexico (18,299)	Colorado (10,125)	California (10,080)	New York (6,092)	Florida (5,810)
All other Hispanic or Latino	California (1,359,822)	Texas (1,223,588)	New York (467,801)	Florida (368,519)	New Mexico (329,401)

Specific Origin/Rank	6	7	8	9	10
Total Hispanic	Arizona (1,295,617)	New Jersey (1,117,191)	New Mexico (765,386)	Colorado (735,601)	Washington (441,509)
Mexican	Florida (363,925)	New Mexico (330,049)	Washington (329,934)	Nevada (285,764)	Georgia (275,288)
Puerto Rican	Connecticut (194,443)	Illinois (157,851)	California (140,570)	Texas (69,504)	Ohio (66,269)
Cuban	Illinois (18,438)	Georgia (12,536)	Nevada (11,498)	Pennsylvania (10,363)	Massachusetts (8,867)
Dominican Republic	Pennsylvania (12,186)	Connecticut (9,546)	Maryland (5,596)	California (5,047)	Texas (4,296)
Central American	Virginia (73,140)	Maryland (56,135)	Illinois (39,377)	Massachusetts (38,317)	Georgia (31,813)
Costa Rican	North Carolina (2,624)	Massachusetts (1,757)	Connecticut (1,587)	Illinois (1,258)	Georgia (1,195)
Guatemalan	New Jersey (16,992)	Massachusetts (11,437)	Georgia (10,718)	Virginia (10,000)	Rhode Island (8,949)
Honduran	Louisiana (8,792)	North Carolina (8,321)	Virginia (7,819)	Illinois (5,992)	Georgia (5,158)
Nicaraguan	Maryland (3,440)	Virginia (3,191)	Louisiana (2,804)	Nevada (1,583)	Illinois (1,500)
Panamanian	Virginia (3,535)	New Jersey (3021)	North Carolina (2773)	Maryland (2484)	Washington (1725)
Salvadoran	New Jersey (25,230)	Florida (20,701)	Massachusetts (15,900)	District of Columbia (11,741)	Nevada (9,386)
Other Central American	Virginia (3,836)	Maryland (2,421)	Illinois (2,086)	Massachusetts (1,975)	Georgia (1,106)
South American	Virginia (39,841)	Illinois (38,676)	Connecticut (31,310)	Massachusetts (28,036)	Maryland (25,717)
Argentinean	Illinois (2,513)	Maryland (2,281)	Massachusetts (2,248)	Virginia (2,078)	Pennsylvania (1,885)
Bolivian	Texas (1,879)	New Jersey (1,755)	Illinois (1,217)	Rhode Island (961)	Massachusetts (631)
Chilean	Maryland (2,316)	Virginia (2,040)	Massachusetts (1,750)	Illinois (1,727)	Utah (1,504)
Colombian	Massachusetts (12,788)	Illinois (11,856)	Connecticut (10,975)	Georgia (9,083)	Pennsylvania (7,166)
Ecuadorian	Connecticut (7,703)	Texas (3,565)	Massachusetts (2,909)	Maryland (2,618)	Virginia (2,483)
Paraguayan	Virginia (363)	Texas (308)	Illinois (275)	Connecticut (258)	Pennsylvania (207)
Peruvian	Texas (8,013)	Connecticut (6,616)	Maryland (6,364)	Illinois (5,511)	Massachusetts (3,310)
Uruguayan	Massachusetts (692)	Virginia (482)	Georgia (470)	Maryland (428)	Connecticut (391)
Venezuelan	Georgia (2,244)	Massachusetts (2,167)	Virginia (1,996)	Puerto Rico (1,811)	Illinois (1,562)
Other South American	Virginia (2,606)	Illinois (1,634)	Maryland (1,541)	Massachusetts (1,357)	Connecticut (1,130)
Other Hispanic or Latino	Colorado (250,797)	New Jersey (209,993)	Arizona (185,101)	Illinois (128,596)	Virginia (89,620)
Spaniard	Puerto Rico (4,462)	Colorado (2,263)	Arizona (2,224)	Illinois (2,055)	New Mexico (1,984)
Spanish	Florida	New Jersey	Arizona	Hawaii	Washington

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	(40,228)	(23,174)	(19,383)	(16,813)	(13,150)
Spanish American	Texas (4,331)	New Jersey (2,622)	Arizona (1,632)	Utah (1,258)	Massachusetts (1,105)
All other Hispanic or Latino	Colorado (184,818)	New Jersey (175,014)	Arizona (161,862)	Illinois (114,480)	Virginia (74,775)

Source: 1. For 1 April 2000 data, U.S. Census Bureau, Census 2000 Summary File 1(SF1) 100-Percent Data, Detailed Tables for States, Table PCT11. Electronic Access: Select American FactFinder at <http://www.census.gov/>, then click Data Sets and go to Census 2000 Summary File 1(SF1) at http://factfinder.census.gov/servlet/DatasetMainPageServlet?_lang=en.

Appendix B

Top Ten Cities for Latino Population (2000)

TEN LARGEST CITIES IN TOTAL POPULATION AND IN LATINO POPULATION: 2000

Place and state	Total population		Hispanic population		Percent Hispanic of total population
	Number	Rank	Number	Rank	
New York, NY	8,008,278	1	2,160,554	1	27.0
Los Angeles, CA	3,694,820	2	1,719,073	2	46.5
Chicago, IL	2,896,016	3	753,644	3	26.0
Houston, TX	1,953,631	4	730,865	4	37.4
Philadelphia, PA	1,517,550	5	128,928	24	8.5
Phoenix, AZ	1,321,045	6	449,972	6	34.1
San Diego, CA	1,223,400	7	310,752	9	25.4
Dallas, TX	1,188,580	8	422,587	8	35.6
San Antonio, TX	1,144,646	9	671,394	5	58.7
Detroit, MI	951,270	10	47,167	72	5.0
El Paso, TX	563,662	23	431,875	7	76.6
San Jose, CA	894,943	11	269,989	10	30.2

Source: U.S. Census Bureau, Census 2000, Summary File 1.

Appendix C

Glossary of Terms

Terms related to race and ethnicity

Discrimination

The condition that exists when decision makers treat one group inequitably compared to another group based wholly, or in part, on their race, ethnic identity, nationality, gender, sexual orientation, or disability.

Disparity

Different treatment of individuals who are similarly situated (e.g., have been charged with similar offenses) or have common characteristics.

Disproportionate minority confinement

The condition that exists when the proportion of minorities incarcerated in juvenile detention or correctional facilities, jails, or prisons, exceeds the proportion of such groups in the general population.

Disproportionate representation (or over-representation)

The condition that exists when the proportion of a group with a specific characteristic (e.g., percent of Latino/a youth confined in juvenile detention facilities) exceeds the proportion of that group in the population being considered (e.g., percent of Latino/a youth in the general population).

An example of disproportionate representation or over-representation: *Youth of color constitute 34% of the adolescent population of the U.S., but are 67% of youth committed to public juvenile facilities. Thus, youth of color are over-represented among youth committed to public juvenile facilities.*

Minority

An individual who is of a race other than White or who is of Latino ethnicity, regardless of race.

Racial or ethnic disparity

Differential treatment of individuals or groups that are similar except for their race or ethnic identity.

An example of ethnic disparity: *In a 1993 study, if we look only at youth charged with drug offenses, the average length of incarceration for White youth was 144 days, while the average length of incarceration for Latino youth was 306 days. Thus, Latino youth were incarcerated more than twice as long a White youth, even though they were charged with the same type of offenses.*

Terms related to justice system personnel and procedures

Adjudication

The stage in the juvenile justice system in which the charge against a youth is resolved, usually by dismissal, plea by the youth, or finding by the judge. Adjudication is analogous to trial in adult criminal court.

Commitment
A juvenile court disposition ordering an adjudicated youth to be held by the state's juvenile justice agency, typically in a "training school" or other locked institution.

Delinquent
A youth adjudicated for a criminal offense.

Detention (or pretrial detention)
Temporary locked custody, prior to adjudication, of a youth who is accused of a delinquent offense.

Disposition
The stage in the juvenile justice system in which the court imposes a sanction on an adjudicated youth such as probation, placement in a community-based program, or commitment to a state training school. Disposition is analogous to sentencing in adult criminal court.

Drug offense
Includes possession, sale, trafficking, and other offenses such as possession of drug paraphernalia.

Felony
A crime punishable by imprisonment of more than one year.

Intake
The decision making process for determining how a case will be handled following police contact with a youth. If police take a youth into custody, intake staff determine whether the youth will be released to parents or locked up pending a detention hearing. Intake officers or prosecutors screen the police report for legal sufficiency and make an initial determination regarding how it should be handled: formally (by filing charges against the youth) or informally (by having the probation department supervise the youth for a period of time or diverting the case to some alternative tribunal, such as a teen court or community panel).

Juvenile
An individual who has not reached the statutorily defined upper age for original juvenile court jurisdiction in the state in which he or she is charged (e.g., 15, 16, or 17, depending on the state). A young person who has not reached the age of adulthood, as defined by state law.

Misdemeanor
A crime that is less serious than a felony. Usually a misdemeanor is punishable by fine or incarceration for a year or less.

Probation
A disposition in which the judge allows the offender to go free, subject to certain conditions.

Property offense
Includes burglary, theft, motor vehicle theft, fraud, forgery, and other property crimes such as arson, damage to property, and buying or receiving stolen property.

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Public order offense
Includes gambling, prostitution, escape from custody and possession of weapons.

Racial profiling
Targeting certain persons to be stopped, questioned, or arrested because of their race, ethnic appearance, or behaviors associated with—or assumed to be associated with—their cultural heritage.

Transfer
See **Waiver**, below.

Violent offense
Includes murder, rape, robbery, assault, and other serious crimes against persons.

Waiver
The process of prosecuting a youth in adult criminal court, also referred to as "transfer." There are three types of waiver.

Judicial Authorizes juvenile court judges to waive (i.e., give up) juvenile court jurisdiction and transfer the cases to adult criminal court.

Prosecutorial Authorizes prosecutors, in certain kinds of cases, to choose between filing a petition in juvenile court and proceeding against the youth in adult criminal court.

Statutory Excludes certain categories of cases from juvenile court jurisdiction and provides that the juvenile is automatically prosecuted in adult criminal court.

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Appendix D

Survey Letter of Invitation and Consent Form

October 10, 2001

[NAME]
Juvenile Justice Specialist
[ADDRESS]
[CITY, STATE, ZIP]

Dear [NAME]:
We are conducting a national survey on Latino youth in the justice system commissioned by the Youth Law Center in Washington DC and supported by funds from:

- The Office of Juvenile Justice and Delinquency Prevention of the U.S. Department of Justice
- The Bureau of Justice Assistance of the U.S. Department of Justice
- The John D. and Catherine T. MacArthur Foundation
- The William T. Grant Foundation
- The Ford Foundation
- The Charles Stewart Mott Foundation
- The Soros Foundation
- The Rockefeller Foundation, and
- The Annie E. Casey Foundation.

We would very much like to include information from [STATE] in this study. We will call the person you designate on the enclosed form to obtain information about Latino youth in [STATE]. We will ask the questions on the attached page.
We want to assure you that the results of this study will be provided by state name only; no individual names will be used. If you have any questions about the conduct of this research, you may contact either one of us.
Thank you for considering this request. We will be very grateful for your participation.
Sincerely,

Francisco Villarruel, Ph.D.
Research Associate

Nancy E. Walker, Ph.D., M.L.S.
Associate Director

CONSENT FORM

Building Blocks for Youth: Latino Youth in the Justice System

The Institute for Children, Youth, and Families at Michigan State University is conducting a national study of Latino youth in the justice system. This study has been commissioned by the Youth Law Center in Washington DC and is supported by funds from:

- The Office of Juvenile Justice and Delinquency Prevention of the U.S. Department of Justice
- The Bureau of Justice Assistance of the U.S. Department of Justice
- The John D. and Catherine T. MacArthur Foundation
- The William T. Grant Foundation
- The Ford Foundation
- The Charles Stewart Mott Foundation
- The Soros Foundation
- The Rockefeller Foundation, and
- The Annie E. Casey Foundation.

You are invited to join this project because your state has a significant or growing population of Latino youth and you have information regarding youth in the justice system.

1. If you agree to participate in this project, you will complete a telephone interview that will last about 15 minutes. The questions you will be asked are attached to this form. Your responses will be kept at the Institute for Children, Youth, and Families at Michigan State University.
2. Your participation in this project is completely voluntary. If you agree to participate, you will be free to discontinue participation at any time or withdraw from the project without any penalty. You may choose not to answer any question(s) asked during the survey.
3. Your privacy will be protected to the maximum extent allowable by law. The information obtained during the survey will not include individual participants' names or other identifying information. Any summaries, reports, and/or presentations describing the project will not include individual participants' names or other identifying information; names of participating states will be included in reports, however.

Any questions about this study may be asked at any time by contacting:

Francisco Villarruel, Ph.D. **or**
Nancy E. Walker, Ph.D., M.L.S.
Michigan State University
Institute for Children, Youth, and Families
(517) 353-6617

If you have any questions about your role or rights as a research participant, you may contact:

David E. Wright, Ph.D.
Chair
University Committee on Research Involving Human Subjects
Michigan State University
East Lansing, MI 48824
(517) 355-2180

.....

By signing this consent form, I agree to participate in the project, ***Building Blocks for Youth: Latino Youth in the Justice System*** conducted by Drs. Francisco Villarruel and Nancy Walker at Michigan State University:

Participant's Name: _____
Signature: _____ Date: _____
Title: _____
Department: _____
Address: _____
State: _____ Zip code: _____
Phone: _____ E-mail: _____

Appendix E

Survey Categories and Questions

Information on how data are aggregated/disaggregated

1. Do you have data on Latino youth in the justice system in <your state>?
    a. What types of Hispanic-origin/Latino data are collected?
        i. Arrest/detainment?
        ii. Waiver?
        iii. Incarceration?
        iv. Other: please explain _____
    b. "Latino" is a term that describes an array of cultural groups of Hispanic origin. Do you have data on different subgroups of Latinos?
    c. [If yes to (b)]: How does <your state> record those data?
        i. By ethnic group (e.g., Mexican, Puerto Rican, Cuban, etc.)
        ii. By Hispanic surname
        iii. Other: please explain _____
    d. If an individual is of mixed origin (e.g., Hispanic and Black/Caucasian/Asian/Native American), how are these data recorded?
    e. We would like to add the data from <your state> to our national sample, and would be happy to reimburse <your state> to access the data.
        i. Could we access <your state>'s data for our national sample?
        ii. What is the best way for us to obtain the data?
2. [If no to (1)]: What are the reasons that <your state> does not collect data on Hispanics/Latinos?
3. What are the barriers to collecting data on Hispanics/Latinos in the justice system in <your state>?

Data on Latino youth in the justice system

4. What proportion of incarcerated youth are LEP?
5. We would appreciate it if you would estimate for <your state> the proportion of youth who are Latinos who:
    a. Have long-term sentences
    b. Are convicted of drug offenses
    c. Are convicted of property crimes
    d. Are convicted of sexual offenses
    e. Are convicted of aggravated assault
    f. Are convicted of serious violence
6. What is the basis of these estimates?

Policies regarding Latino youth in the justice system

7. How are LEP/Spanish-dominant speaking youth documented?
8. What are the treatment plans for LEP youth?
9. What is the policy for contact with immigration?
10. What actions is your state currently taking to implement or develop intervention plans to address disproportionate minority representation (DMR)?
11. What are the criteria for waiving youth into the adult court in <your state>?
12. Who makes the decision to waive a juvenile to the adult system?
    a. Judge
    b. Prosecutor
    c. Statute: What is the criminal code that specifies which youth will be waived to criminal court? _____
    d. Other: please specify _____

Trends regarding Latino youth in the justice system

13. <your state> has a [significant/growing] population of Latinos. Have you seen changes in the adjudication of Latino youth in the last 2-3 years?
    a. What is the nature of those changes?
14. Have the incarceration rates of Latinos paralleled the demographic shifts in your state?
    a. If not, how have they differed?
15. What types of challenges have evolved related to Latino youth in the justice system in <your state>?

Conclusion

16. What else would you like to share with us about Latino youth in the justice system in <your state>?

Appendix F

Other Data Sources for This Report

- *A Reassessment of Minority Overrepresentation in Connecticut's Juvenile Justice System* (Hartstone & Richetelli, 2001).
- *American Dream Makers: Latino Profiles Study Report* (Hayes-Bautista & Nichols, 2000).
- **Building Blocks for Youth** Series:

  The Color of Justice (Males & Macallair, 2000)
  And Justice for Some (Poe-Yamagata & Jones, 2000)
  Youth Crime/Adult Time: Is Justice Served? (Juszkiewicz, 2000)
  Off Balance: Youth, Race & Crime in the News (Dorfman & Schiraldi, 2001)
  Youth Justice Fact Sheets
- *Characteristics Of CYA* [California Youth Authority] *Population* (CYA, June 2001); *Trends In YA Commitments* (through 1997; CYA, 19xx); *A Comparison of First Commitment Characteristics* (1989-2000) (CYA, 2001).
- *Children's Defense Fund Action Council Web Site* (available at www.cdfactioncouncil.org).
- *Esperanza: Awakening to the Strength of Latino Youth* (Coalition for Juvenile Justice, 2001).
- *Human Rights Watch Web Site* (available at http://hrw.org/backgrounder/usa/race)
- Inter-University Program for Latino Research Web Site (available at www.nd.edu/~iuplr/).
- *Juvenile Offenders and Victims: 1999 National Report* (Snyder & Sickmund, 1999b).
- *Juveniles Processed in the Arizona Court System FY00* (Arizona Juvenile Justice Service Division, 2001).
- *Kentucky Disproportionate Minority Confinement Initiative: Interim Report* (Kentucky Department of Juvenile Justice, 2000).
- *Masking the Divide: How Officially Reported Prison Statistics Distort the Racial and Ethnic Realities of Prison Growth* (Holman, 2001).
- *Minorities in the Juvenile Justice System* (Bilchik, 1999).
- *Ohio Department of Youth Services Commitment/Regional Trend Report* (FYs 1997-1998, 1998-1999, 1999-2000).
- U.S. Census Bureau. Data from the U.S. Census Bureau permitted us to analyze some states' data on a county-by-county basis. Employing counties as units of analysis can yield more reliable outcomes on the issue of overrepresentation because state-level aggregate data sets may tend to mask discrimination in the justice system due to intrastate variations in minority population density (Hawkins & Hardy, 1989).
- U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

Appendix G

How States Waive Juveniles to Adult Court

	Permits statutory waiver (29)	Permits prosecutorial waiver (15)	Permits judicial waiver (47)	Type(s) of judicial waiver permitted		
				Discretionary (47)	Presumptive (16)	Mandatory (15)
AL	Yes	No	Yes	Yes	No	No
AK	Yes	No	Yes	Yes	Yes	No
AZ	Yes	Yes	Yes	Yes	Yes	No
AR	No	Yes	Yes	Yes	No	No
CA	Yes	No	Yes	Yes	Yes	No
CO	No	Yes	Yes	Yes	Yes	No
CT	No	No	Yes	Yes	No	Yes
DE	Yes		Yes	Yes	No	Yes
DC	No	Yes	Yes	Yes	Yes	No
FL	Yes	Yes	Yes	Yes	No	No
GA	Yes	Yes	Yes	Yes	No	Yes
HI	No	No	Yes	Yes	No	No
ID	Yes	No	Yes	Yes	No	No
IL	Yes	No	Yes	Yes	Yes	Yes
IN	Yes	No	Yes	Yes	No	Yes
IA	Yes	No	Yes	Yes	No	No
KS	No	No	Yes	Yes	Yes	No
KY	No	No	Yes	Yes	No	Yes
LA	Yes	Yes	Yes	Yes	No	Yes
ME	No	No	Yes	Yes	Yes	No
MD	Yes	No	Yes	Yes	No	No
MA	Yes	Yes	No	--	--	--
MI	No	Yes	Yes	Yes	No	No
MN	Yes	No	Yes	Yes	Yes	No
MS	Yes	No	Yes	Yes	No	No
MO	No	No	Yes	Yes	No	No
MT	Yes	Yes	Yes	Yes	No	No
NE	No	Yes	No	--	--	--
NV	Yes	No	Yes	Yes	Yes	No
NH	No	No	Yes	Yes	Yes	No
NJ	No	No	Yes	Yes	Yes	Yes
NM	Yes	No	No	--	--	--
NY	Yes	No	No	--	--	--
NC	No	No	Yes	Yes	No	Yes
ND	No	No	Yes	Yes	Yes	Yes
OH	No	No	Yes	Yes	No	Yes
OK	Yes	Yes	Yes	Yes	No	No
OR	Yes	No	Yes	Yes	No	No
PA	Yes	No	Yes	Yes	Yes	No
RI	No	No	Yes	Yes	Yes	Yes
SC	Yes	No	Yes	Yes	No	Yes
SD	Yes	No	Yes	Yes	No	No
TN	No	No	Yes	Yes	No	No
TX	No	No	Yes	Yes	No	No
UT	Yes	No	Yes	Yes	Yes	No
VT	Yes	Yes	Yes	Yes	No	No
VA	No	Yes	Yes	Yes	No	Yes
WA	Yes	No	Yes	Yes	No	No
WV	No	No	Yes	Yes	No	Yes
WI	Yes	No	Yes	Yes	No	No
WY	No	Yes	Yes	Yes	No	No

Source: Griffin (2000). "National overviews." State juvenile justice profiles. National Council on Juvenile Justice web site. Available at http://www.ncjj.org/stateprofiles/.

Appendix H
Sample Non-Cooperation Agreement

Appendix I
Differences Between the Juvenile Justice and Adult Criminal Justice Systems

There are similarities and differences between the juvenile justice and adult criminal justice systems. Many of the basic elements of due process are common to both systems: the rights to written notice of charges, trial by an impartial judge, representation by counsel at trial (adjudication), freedom from self-incrimination, opportunity to confront and cross-examine witnesses, requirement of proof "beyond a reasonable doubt" for conviction, and right to appeal. The notable due process differences are that defendants in adult criminal court are constitutionally entitled to bail and to trial by jury, while youth in juvenile court are not.

There also are differences of philosophy. The juvenile court was established in 1899 based on a principle of rehabilitation and recognition that youth are not simply small adults, but instead are individuals who are immature but will grow, develop, and learn over time. The adult criminal court is based on punishment, deterrence, and removal of offenders from society. The two systems also use different terminology:

In the criminal court system an adult is:	*In the juvenile court system a juvenile is:*
Arrested	Arrested
Jailed (before trial)	Detained (before adjudication)
Tried	Adjudicated*
Given a sentence	Given a disposition
Labeled a felon	Labeled a delinquent
Imprisoned (after trial)	Committed (after adjudication)

*Alternatively, a juvenile may be waived or transferred to adult criminal court for trial.

Over the past 10 years, states throughout the country have made their juvenile justice systems tougher and more like the adult criminal justice system, often adding explicit provisions to their state codes calling for "accountability" and "responsibility," protection of the public, and punishment of young offenders. Forty-seven states have reduced or removed confidentiality protections in juvenile court by making proceedings and records open to the public. In addition, 44 states and the District of Columbia have changed their statutes to make it easier to prosecute young people in adult criminal court (Snyder & Sickmund, 1999a). Appendix B lists the methods available in each state (judicial waiver, prosecutorial waiver, statutory waiver) for transferring juveniles to adult criminal court.

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